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Topics

Petitions and secure custody orders

Minors and criminal process

Things raise the age didn't raise

No minors in jails...ever

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Why Would a Magistrate Be Involved?



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G.S. 7B-1804(b) Commencement of Action

- magistrate may draw and verify the petition and accept it for filing, which constitutes filing
- petition must be delivered to the clerk's office for processing as soon as that office is open for business

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Secure Custody Order Must be Authorized by Judge or Court Counselor

G.S. 7B-1907

Authorization may be by telephone

Order must include name and title of person communicating by telephone




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**NOTE:** Only one of the following may be checked:

- 4. A Level 1 Disposition has been entered ordering intermittent confinement of not more than the 24-hour periods.
- 5. A Level 2 Disposition has been entered ordering that the juvenile be confined for up to fourteen 24-hour periods.
- 6. The juvenile has been found by the Court to be in violation of a Level 1 probation and as part of a new disposition the Court orders intermittent confinement for up to 10 days, which is up to twice the time authorized by G.S. 7B-2506 and -2508. (G.S. 7B-2510(a))
- 7. The juvenile has been found by the Court to be in violation of a Level 2 probation and as part of a new disposition the Court orders intermittent confinement for up to 28 days, which is up to twice the time authorized by G.S. 7B-2506 and -2508. (G.S. 7B-2510(b))
- 8. The Court has entered an order based on direct contempt by the juvenile pursuant to G.S. 5A-32(a).
- 9. **NOTE: Duration may not exceed five (5) days.**  
The juvenile is an out-of-state:  runaway  absconder  escapee  accused delinquent and should be held in secure custody up to a maximum of 90 calendar days pending the safe return of the juvenile to the home/demanding state. (GJ Rules 61-52 and 61-52A)
- 10. The juvenile's case is retransferred from superior court to district court, the prosecutor requested issuance of a secure custody order, and the juvenile meets the G.S. 7B-1903 criteria for issuance of a secure custody order (item 1 above and one or more of the items within item 1 must be checked).

**OTHER FINDINGS**

Date: \_\_\_\_\_ Signature of Judge/District Court Judge's Designee: \_\_\_\_\_ District Court Judge \_\_\_\_\_ Superior Court Judge \_\_\_\_\_  
 Name of Judge/District Court Judge's Designee (last, first, middle initial): \_\_\_\_\_ District Court Judge's Designee \_\_\_\_\_

Maximum Number Of Copies: \_\_\_\_\_

**If the judge allows (check appropriate) comment:**

Type:  AM  PM  Other: \_\_\_\_\_

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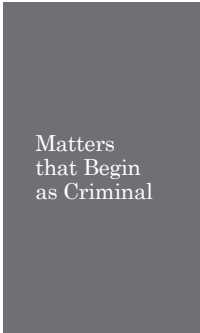
Things raise the age didn't raise

No minors in jails...ever



Seven horizontal lines for notes

7



Matters that Begin as Criminal

Chapter 20 motor vehicle offenses committed at ages 16 and 17

Minors charged with committing a new offense after a criminal conviction (other than conviction for a misdemeanor motor vehicle offense that did not involve impaired driving)



Seven horizontal lines for notes

8



Matters that Begin as Criminal

Place of confinement is ONLY difference in these cases



Seven horizontal lines for notes

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### Matters that Become Criminal

- Cases transferred from juvenile to superior court
- Any felony committed at age 13 or over
- Some **MUST** be transferred, others **MAY** be transferred




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### Matters that Become Criminal

- Right to conditions of pretrial release after transfer
- This may involve a secured bond...and that gets **COMPLICATED**




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### Matters that Become Criminal

- 10-day window to file an appeal of a transfer order
- The case is a criminal matter under superior court jurisdiction during this time

Dispelling Transfer Confusion blog  
<https://mccriminallaw.sog.unc.edu/dispelling-transfer-confusion-10-day-appeal-window-orders-for-arrest/>




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12

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13

**DVPO's**

- G.S. 50B-1(b)(3): an order of protection can be granted for child/grandchild aged 16/17
- Use of contempt for enforcement will be indirect contempt by a juvenile when under 18. G.S. 5A-31
- Knowing violation is a new offense (Class A1 misdemeanor)
- New delinquency petition unless once an adult, always an adult applies
- New delinquency petition unless once an adult, always an adult applies



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**Civil No Contact Orders**

- G.S. 50C-1 definition of unlawful conduct includes conduct at ages 16/17
- Use of contempt for enforcement will be indirect contempt by a juvenile when under 18. G.S. 5A-31
- New delinquency petition unless once an adult, always an adult applies



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## Kidnapping & Felonious Restraint

- Maintains age 16 in distinction regarding whose lack of consent is required
- 16 or over = that person's lack of consent
- Under 16 = lack of consent by parent or legal custodian

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Many Crimes Continue to Define a Minor/Child as Someone Under 16

### For Example:

- Soliciting, encouraging participation in criminal gang activity
- Dissemination of obscene material to minor
- Indecent exposure crimes
- Solicitation of a child by computer
- Misdemeanor and felony child abuse
- Failure to report the disappearance of a child
- Transporting a child out of state with intent to violate a custody order

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18

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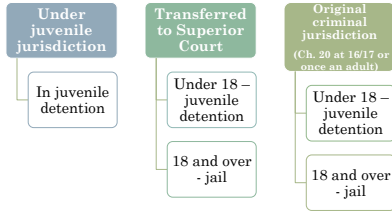
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### Pre-trial Secure Confinement



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Following a Criminal Conviction

If the defendant would be held in a jail (for any reason) and they are under 18, they are held in juvenile detention.

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### Contact Info

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(919) 966-4327



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