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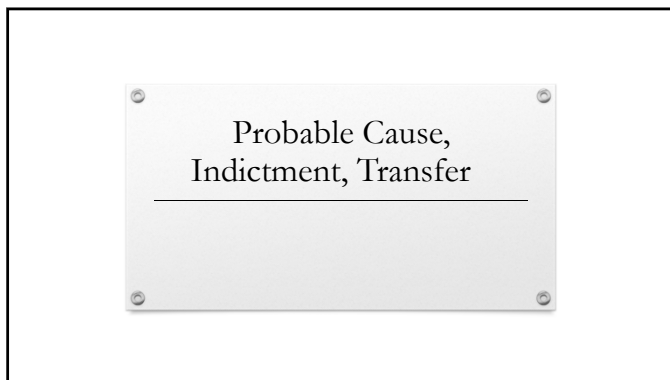
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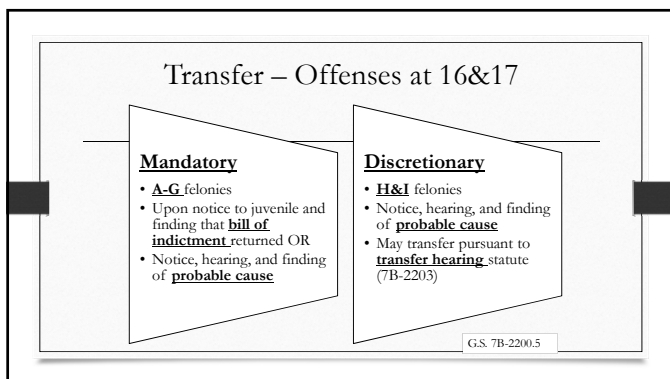
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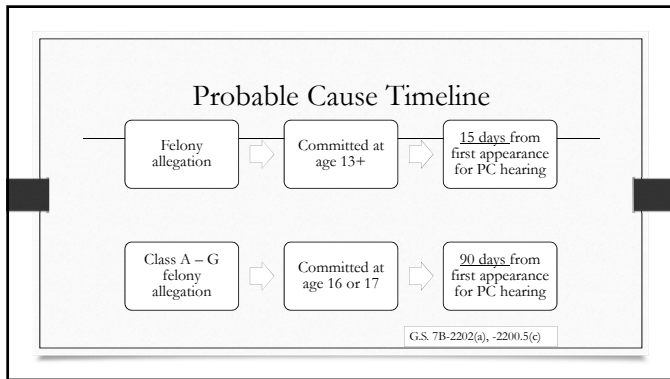
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Probable  
Cause  
Hearing

- Prosecutor must represent the State
- Juvenile must have counsel
- Juvenile may testify, call, and examine witnesses; may present evidence
- Each witness must testify under oath or affirmation and be subject to cross-examination

G.S. 7B-2202(b)

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Probable  
Cause &  
Evidence

Probable cause must be established by nonhearsay evidence or evidence that satisfies a hearsay exception

OR...

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**Expressly Admissible**

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Reports from a physicist, chemist, firearms identification expert, fingerprint technician, or an expert, technician in some other scientific, professional, or medical field, concerning results of an examination, comparison, or test performed in connection with the case

If no serious contest, reliable hearsay as to value; ownership of property; possession of property in person other than the juvenile; lack of owner, possessor, or custodian of property consent to the breaking or entering; chain of custody; and authenticity of signatures

G.S. 7B-2202(c)(1), -(2)

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**Determination at Probable Cause Hearing**

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Probable cause to believe that the offense charged has been committed and that the juvenile committed it

G.S. 7B-2202(c)

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**No Felony Probable Cause**

Dismissal

- Jeopardy has not attached

Probable cause on lesser included misdemeanor

- Proceed to adjudication on misdemeanor
- Adjudicatory hearing must be a separate hearing

G.S. 7B-2202(f)

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A - G = mandatory transfer

H, I = motion to transfer and transfer hearing OR proceed to adjudication

Felony Probable Cause (at 16/17)

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Probable Cause

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Practice Considerations

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Indictment



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**New Statutory Language**

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G.S. 7B-2200.5(a)(1)

Notice to the juvenile and a finding by the court that a bill of indictment has been returned against the juvenile charging the commission of an offense that constitutes a Class A, B1, B2, C, D, E, F, or G felony if committed by an adult. (trigger automatic transfer)

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<p>A complaint and petition must precede any finding that an indictment has been returned</p>	<p>Cases <b>MUST</b> begin in district court in order to be transferred</p>
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<p>Confidentiality?</p>	<ul style="list-style-type: none"> <li>• Every part of the juvenile court record is subject to the confidentiality provisions in G.S. 7B-3000             <ul style="list-style-type: none"> <li>• “any written motions, orders, or papers filed in the proceeding”</li> </ul> </li> </ul> <div style="text-align: center;"> </div>
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### Indictment Process

15A-621  
A grand jury is a body...impaneled by a superior court and constituting part of such court.

15A-628(c)  
Bills of indictment submitted by the prosecutor to the grand jury, whether found to be true bills or not, must be returned by the foreman of the grand jury to the presiding judge in open court.

15A-641(a)  
Any indictment is a written accusation by a grand jury, filed with a superior court, charging a person with the commission of one or more criminal offenses

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## Indictment

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### Practice Considerations

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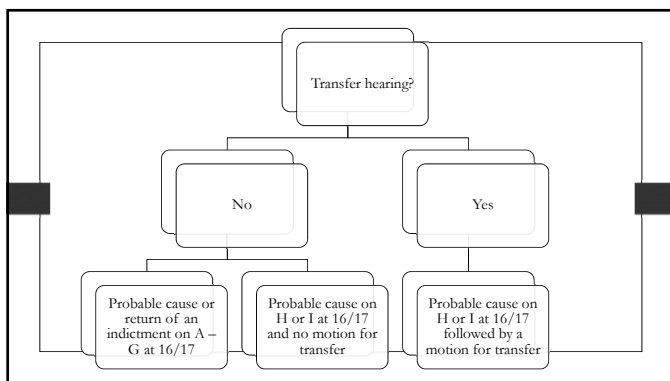
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Transfer  
Hearing

Prosecutor and juvenile may be heard and offer evidence  
(G.S. 7B-2203(a))

- No explicit statute or appellate law on whether rules of evidence apply
- Rules of evidence apply unless there is an explicit statutory exception or exception in the Rules (Rules 101, 1101(a)), (State v. Foster, 222 N.S. App. 199 (2012))

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Transfer Determination

Whether the protection of the public and the needs of the juvenile will be served by transfer

G.S. 7B-2203(b)

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Factors that MUST be considered in determining transfer

- age \_\_\_\_\_
- maturity \_\_\_\_\_
- intellectual functioning \_\_\_\_\_
- prior record \_\_\_\_\_
- prior rehabilitation attempts \_\_\_\_\_
- available juvenile facilities and programs and likelihood of benefit from treatment and rehabilitative efforts \_\_\_\_\_
- whether alleged offense was committed in an aggressive, violent, premeditated, or willful manner \_\_\_\_\_
- Seriousness of the offense and whether protection of the public requires adult prosecution \_\_\_\_\_

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### Transfer Order

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**Must specify the reasons for transfer (G.S. 7B-2203(c))**



**Confers superior court jurisdiction over:**  
 any greater or lesser included offenses  
 any other offenses arising out of the same act or transaction and  
 a series of acts or transactions connected as a single scheme or plan

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Right to  
Appeal  
Transfer  
Decision

Provided pursuant to G.S. 7B-2603

To superior court for a hearing on the record

Notice required in open court or in writing within 10 days after entry of the transfer order

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### Transfer Decision Appellate Review

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Standard = **abuse of discretion** in the issue of transfer (no review on findings of probable cause allowed at this time)  
 G.S. 7B-2603(a)

“A superior court reviewing an appeal of a transfer order may not, however, re-weigh the evidence, decide which factors are more important, and reverse the district court on that basis... Put simply, a superior court may not substitute its judgment for that of the district court.”  
In re E.S., 191 N.C.App. 568

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If Transfer Ordered

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Must set conditions for pretrial release per G.S. 15A-533, -534 G.S. 7B-2204

Fingerprinting Required G.S. 7B-2201

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Case transferred
• Alleged offense at 16 or 17
Must be remanded to juvenile court
• On joint motion of DA and juvenile's attorney
Must expunge superior court record
• Per 15A-145.8 (new)



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Transfer

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Practice Considerations

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