

I. Who can be transferred?

A. Any juvenile at least 13 years of age who has committed an offense that would be a felony if committed by an adult 7B-2200

1. Age on date of offense is what controls

II. What can be transferred?

A. Any offense that would be a Felony if committed by an adult 7B-2200

1. Class A felony (first degree murder) must be transferred

III. When can the state seek transfer?

A. After a finding of probable cause

1. PC hearing SHALL be conducted within 15 days of first appearance 7B-2202(a)

B. Upon motion of the prosecutor, the court or the juvenile 7B-2202(e)

1. Notice of intention to seek transfer must be received by the juvenile at least 5 days prior to the probable cause hearing

a) If notice requirement not met the court SHALL continue the hearing at the request of the juvenile

IV. The issue to be determined at transfer hearing is whether the protection of the public and the needs of the juvenile will be served by transfer of the case to superior court. 7B-2203(b)

A. Factors that SHALL be considered by the court:

- 1. The age of the juvenile**
- 2. The maturity of the juvenile**
- 3. The intellectual functioning of the juvenile**
- 4. The prior record of the juvenile**
- 5. Prior attempts to rehabilitate the juvenile**
- 6. Facilities or programs available to the court prior to the expiration of the court's jurisdiction and the likelihood that the juvenile would benefit from such programs**
- 7. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner**
- 8. The seriousness of the offense and whether the protection of the public requires that the juvenile be prosecuted as an adult**

B. If the court determines that transfer is necessary it must specify its reasons in an order 7B-2203(c)

C. If the court determines transfer is not necessary, it must proceed to adjudication or set a date for adjudication 7B-2203(d)

V. Appeal of transfer order 7B-2603

A. Appeal is immediately available

1. Orally in open court

B. or within 10 days after entry of the order

1. in writing
2. Entry of order is treated the same as entry of judgment
NCGS 1A-1, rule 58 NCRCP

C. appeal is to the Superior Court

D. appeal is review of the record

1. superior court judge reviews transcript of proceeding
 - a) make effort to assure integrity of transcript (is recording equipment on??)

E. standard of review is abuse of discretion 7B-2603(a)

F. Appeal to Court of Appeals only after a finding of guilt in Superior Court 7B-2603(d)

1. Under current law only reviewable by COA if found guilty at trial
2. No review of transfer issue with guilty plea

VI. Pretrial release

A. Juvenile is entitled to pretrial release upon finding of transfer 7B-2603(b)

1. Be prepared to argue pretrial release conditions immediately after transfer hearing