

Article 18.

Venue; Petition; Summons.

§ 7B-1800. Venue.

(a) A proceeding in which a juvenile is alleged to be delinquent or undisciplined shall be commenced and adjudicated in the district in which the offense is alleged to have occurred. When a proceeding is commenced in a district other than that of the juvenile's residence, the court shall proceed to adjudication in that district and, if the juvenile is in residential treatment or foster care in that district, the court shall conduct the dispositional hearing in that district as well, unless the judge enters an order, supported by findings of fact, that a transfer would serve the ends of justice or is in the best interests of the juvenile.

(b) Except as provided in subsection (a) of this section, after adjudication, the following procedures shall be available to the court:

- (1) The court may transfer the proceeding to the court in the district where the juvenile resides for disposition.
- (2) Where the proceeding is not transferred under subdivision (1) of this section, the court shall immediately notify the chief district court judge in the district in which the juvenile resides. If the chief district court judge requests a transfer within five days after receipt of notification, the court shall transfer the proceeding.
- (3) Where the proceeding is not transferred under subdivision (1) or (2) of this section, the court, upon motion of the juvenile, shall transfer the proceeding to the court in the district where the juvenile resides for disposition. The court shall advise the juvenile of the juvenile's right to transfer under this section. (1979, c. 815, s. 1; 1998-202, s. 6; 2004-155, s. 1.)

§ 7B-1801. Pleading and process.

The pleading in a juvenile action is the petition. The process in a juvenile action is the summons. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-1802. Petition.

The petition shall contain the name, date of birth, and address of the juvenile and the name and last known address of the juvenile's parent, guardian, or custodian. The petition shall allege the facts that invoke jurisdiction over the juvenile. The petition shall not contain information on more than one juvenile.

A petition in which delinquency is alleged shall contain a plain and concise statement, without allegations of an evidentiary nature, asserting facts supporting every element of a criminal offense and the juvenile's commission thereof with sufficient precision clearly to apprise the juvenile of the conduct which is the subject of the allegation.

Sufficient copies of the petition shall be prepared so that copies will be available for the juvenile, for each parent if living separate and apart, for the guardian or custodian if any, for the juvenile court counselor, for the prosecutor, and for any person determined by the court to be a necessary party. (1979, c. 815, s. 1; 1981, c. 469, s. 9; 1998-202, s. 6; 2001-490, s. 2.10.)

§ 7B-1803. Receipt of complaints; filing of petition.

(a) All complaints concerning a juvenile alleged to be delinquent or undisciplined shall be referred to the juvenile court counselor for screening and evaluation. Thereafter, if the juvenile court counselor determines that a petition should be filed, the petition shall be drawn by the juvenile court counselor or the clerk, signed by the complainant, and verified before an official authorized to administer oaths. If the circumstances indicate a need for immediate attachment of jurisdiction and if the juvenile court counselor is out of the county or otherwise unavailable to receive a complaint and to draw a petition when it is needed, the clerk shall assist the complainant in communicating the complaint to the juvenile court counselor by telephone and, with the approval of the juvenile court counselor, shall draw a petition and file it when signed and verified. A copy of the complaint and petition shall be transmitted to the juvenile court counselor.

(b) If review is requested pursuant to G.S. 7B-1704, the prosecutor shall review a complaint and any decision of the juvenile court counselor not to authorize that the complaint be filed as a petition. If the prosecutor, after review, authorizes a complaint to be filed as a petition, the prosecutor shall prepare the complaint to be filed by the clerk as a petition, recording the day of filing. (1979, c. 815, s. 1; 1981, c. 469, ss. 10, 11; 1998-202, s. 6; 2001-490, s. 2.11; 2012-172, s. 1.)

§ 7B-1804. Commencement of action.

(a) An action is commenced by the filing of a petition in the clerk's office when that office is open, or by a magistrate's acceptance of a petition for filing pursuant to subsection (b) of this section when the clerk's office is closed.

(b) When the office of the clerk is closed and the juvenile court counselor requests a petition alleging a juvenile to be delinquent or undisciplined, a magistrate may draw and verify the petition and accept it for filing, which acceptance shall constitute filing. The magistrate's authority under this subsection is limited to emergency situations when a petition is required in order to obtain a secure or nonsecure custody order. Any petition accepted for filing under this subsection shall be delivered to the clerk's office for processing as soon as that office is open for business. (1979, c. 815, s. 1; 1987, c. 409, s. 3; 1998-202, s. 6; 2001-490, s. 2.12.)

§ 7B-1805. Issuance of summons.

(a) Immediately after a petition has been filed alleging that a juvenile is undisciplined or delinquent, the clerk shall issue a summons to the juvenile and to the parent, guardian, or custodian requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include:

- (1) Notice of the nature of the proceeding and the purpose of the hearing scheduled on the summons.
- (2) Notice of any right to counsel and information about how to seek the appointment of counsel prior to a hearing.
- (3) Notice that, if the court determines at the adjudicatory hearing that the allegations of the petition are true, the court will conduct a dispositional hearing

and will have jurisdiction to enter orders affecting substantial rights of the juvenile and of the parent, guardian, or custodian, including orders that:

- a. Affect the juvenile's custody;
 - b. Impose conditions on the juvenile;
 - c. Require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment;
 - d. Require the parent to undergo psychiatric, psychological, or other treatment or counseling;
 - e. Order the parent to pay for treatment that is ordered for the juvenile or the parent; and
 - f. Order the parent to pay support for the juvenile for any period the juvenile does not reside with the parent or to pay attorneys' fees or other fees or expenses as ordered by the court.
- (4) Notice that the parent, guardian, or custodian shall be required to attend scheduled hearings and that failure without reasonable cause to attend may result in proceedings for contempt of court.
- (5) Notice that the parent, guardian, or custodian shall be responsible for bringing the juvenile before the court at any hearing the juvenile is required to attend and that failure without reasonable cause to bring the juvenile before the court may result in proceedings for contempt of court.

(c) The summons shall advise the parent, guardian, or custodian that upon service, jurisdiction over the parent, guardian, or custodian is obtained and that failure of the parent, guardian, or custodian to appear or bring the juvenile before the court without reasonable cause or to comply with any order of the court pursuant to Article 27 of this Chapter may cause the court to issue a show cause order for contempt. The summons shall contain the following language in bold type:

"TO THE PARENT(S), GUARDIAN(S), OR CUSTODIAN(S): YOUR FAILURE TO APPEAR IN COURT FOR A SCHEDULED HEARING OR TO COMPLY WITH AN ORDER OF THE COURT MAY RESULT IN A FINDING OF CRIMINAL CONTEMPT. A PERSON HELD IN CRIMINAL CONTEMPT MAY BE SUBJECT TO IMPRISONMENT OF UP TO 30 DAYS, A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) OR BOTH."

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 2; 1995, c. 328, s. 1; 1998-202, s. 6.)

§ 7B-1806. Service of summons.

The summons and petition shall be personally served upon the parent, the guardian, or custodian and the juvenile not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If the parent, guardian, or custodian entitled to receive a summons cannot be found by a diligent effort, the court may authorize service of the summons and petition by mail or by publication. The cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct.

The court may issue a show cause order for contempt against a parent, guardian, or custodian who is personally served and fails without reasonable cause to appear and to bring the juvenile before the court.

The provisions of G.S. 15A-301(a), (c), (d), and (e) relating to criminal process apply to juvenile process; provided the period of time for return of an unserved summons is 30 days. (1979, c. 815, s. 1; 1998-202, s. 6.)

§ 7B-1807. Notice to parent and juvenile of scheduled hearings.

The clerk shall give to all parties, including both parents of the juvenile, the juvenile's guardian or custodian, and any other person who has assumed the status and obligation of a parent without being awarded legal custody of the juvenile by a court, five days' written notice of the date and time of all scheduled hearings unless the party is notified in open court or the court orders otherwise. (1998-202, s. 6.)

§ 7B-1808. First appearance for felony cases.

(a) A juvenile who is alleged in the petition to have committed an offense that would be a felony if committed by an adult shall be summoned to appear before the court for a first appearance within 10 days of the filing of the petition. If the juvenile is in secure or nonsecure custody, the first appearance shall take place at the initial hearing required by G.S. 7B-1906. Unless the juvenile is in secure or nonsecure custody, the court may continue the first appearance to a time certain for good cause.

(b) At the first appearance, the court shall:

- (1) Inform the juvenile of the allegations set forth in the petition;
- (2) Determine whether the juvenile has retained counsel or has been assigned counsel;
- (3) If applicable, inform the juvenile of the date of the probable cause hearing, which shall be within 15 days of the first appearance; and
- (4) Inform the parent, guardian, or custodian that the parent, guardian, or custodian is required to attend all hearings scheduled in the matter and may be held in contempt of court for failure to attend any scheduled hearing.

If the juvenile is not represented by counsel, counsel for the juvenile shall be appointed in accordance with rules adopted by the Office of Indigent Services. (1998-202, s. 6; 2000-144, s. 20; 2001-487, s. 4.)