

1 **Rule 16. Transfer of delinquency case and venue.**

2 (a) **Transfer of delinquency case for preliminary inquiry.**

3 (1) When a minor resides in a county ~~within the state~~ other than the county in  
4 which the alleged delinquency occurred, ~~and it appears that~~ the minor initially  
5 qualifies for a nonjudicial adjustment pursuant to statute, the ~~intake~~ probation  
6 officer of the county of occurrence ~~must~~shall, unless otherwise directed by court  
7 ~~order,~~ transfer the referral to the minor's county of residence for a preliminary  
8 inquiry to be conducted in accordance with Rule 15.

9 (2) If the minor or the minor's parent, guardian, or custodian cannot be located or  
10 fails to appear after notice of the preliminary inquiry or the minor declines an offer  
11 for a nonjudicial adjustment ~~any of the following circumstances are found to exist~~  
12 ~~at the time of preliminary inquiry,~~ the referral ~~must~~shall be transferred back to the  
13 county of occurrence for a determination as to whether to filing of a petition, and  
14 ~~further proceedings:~~

15 ~~(A) a minor, the child or the child's parent, guardian or custodian cannot be~~  
16 ~~located or failed to appear after notice for the preliminary inquiry;~~

17 ~~(B) a minor, the child or the child's parent, guardian or custodian declines an offer~~  
18 ~~for a nonjudicial adjustment;~~

19 ~~(C) a minor or the minor's custodian cannot be located or fails to appear after~~  
20 ~~notice for the preliminary inquiry or the minor declines an offer for a nonjudicial~~  
21 ~~adjustment;~~

22 ~~(D) there are circumstances in the case that require adjudication in the county of~~  
23 ~~occurrence in the interest of justice; or~~

24 ~~(E) there are multiple minors involved who live in different counties.~~

25 (b) Arrest and pretrial proceedings. ~~If the referral is not returned to the county of~~  
26 ~~occurrence, a petition may be filed in the county of residence, and the arraignment and~~  
27 ~~all further proceedings may be conducted in that county if the petition is admitted.~~

28 (1) Upon filing of a petition, the arraignment and initial pretrial conference will be  
29 held in the minor's county of residence. If the petition is resolved without a trial,  
30 venue will remain in the minor's county of residence.

31 (2) Prosecutors and defense counsel in both the county of occurrence and the  
32 county of residence must cooperate with each other both to provide discovery to  
33 defense counsel and to assist in the resolution or litigation of each case.

34 (3) The prosecutor in the minor's county of residence has the authority to resolve  
35 any out-of-county charge after consultation with the prosecutor in the county or  
36 counties where the alleged offenses occurred.

37 (4) Prosecutors attempting to resolve petitions must observe the rights of any  
38 alleged victim in the county or counties of occurrence.

39 (c) Transfer of venue. ~~After the filing of a petition alleging a delinquency or criminal~~  
40 ~~action, the court may transfer the case to the district where the minor resides or the~~  
41 ~~district where the violation of law or ordinance is alleged to have occurred. The court~~  
42 ~~may, in its discretion, after adjudication certify the case for disposition to the court of the~~  
43 ~~district in which the minor resides.~~

44 (1) Once the court in the county of residence determines that the matter cannot be  
45 resolved, venue will be transferred to the county of occurrence for trial  
46 proceedings and scheduling.

47 (2) Any motions related to the admission, exclusion, or suppression of evidence at  
48 trial will be filed in and ruled upon by the trial court.

49 (3) Motions for inquiry into competency may be raised and ruled upon in either  
50 court. The court in the county of residence and the court in the county of  
51 occurrence will communicate and consult regarding the motion. The objective of

52 the communication is to consider the appropriate venue for a competency ruling  
53 and attainment proceedings.

54 (4) If the petition is adjudicated, the case will be transferred back to the court in  
55 the minor's county of residence for disposition and continuing jurisdiction.

56 (d) Notice to and proceedings in the receiving court. With each transfer, ~~the~~  
57 transferring ~~or certifying~~ court ~~shall~~will provide notice to the receiving court of the  
58 petitions or adjudications subject to transfer.~~notify the receiving court and transmit all~~  
59 ~~documents and legal and social records, or certified copies thereof, to the receiving court.~~  
60 The receiving court ~~shall~~will proceed with the case from the point where the preceding  
61 court transferred the case as though~~if~~ the petition originally had been ~~originally~~-filed or  
62 the adjudication originally had been ~~originally~~-made in that court.

63 (e) Dismissal of petition. The dismissal of a petition in one district where the dismissal  
64 is without prejudice and where there has been no adjudication upon the merits ~~shall~~does  
65 not preclude refiling within the same district or another district where venue is proper.