

Rule 16. Transfer of delinquency case and venue.

(a) Transfer of delinquency case for preliminary inquiry.

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

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

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

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

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

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

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

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

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

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

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

(4) A prosecutor attempting to resolve a petition must respect the rights of any alleged victim in the county or counties of occurrence.

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

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

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

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

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

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

(d) Notice to and proceedings in the receiving court. With each transfer, ~~T~~the transferring ~~or certifying~~ court ~~shall~~will provide notice to the receiving court of any petition or adjudication subject to transfer. ~~notify the receiving court and transmit all documents and legal and social records, or certified copies thereof, to the receiving court.~~ The receiving court ~~shall~~will proceed with the case as though ~~if~~ the petition ~~had been~~was ~~originally~~ filed or the adjudication ~~had been~~was ~~originally~~ made in the ~~at~~ receiving court.

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