

§ 7B-2202. Probable cause hearing.

(a) Except as otherwise provided in G.S. 7B-2200 and G.S. 7B-2200.5 and in matters that have been removed from superior court pursuant to G.S. 15A-960, the prosecutor shall calendar the date of the probable cause hearing and the court shall provide notice and conduct a hearing to determine probable cause in all felony cases in which a juvenile was 13 years of age or older when the offense was allegedly committed. Except as otherwise provided in this section, the hearing shall be conducted within 15 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(b) At the probable cause hearing:

- (1) A prosecutor shall represent the State;
- (2) The juvenile shall be represented by counsel;
- (3) The juvenile may testify, call, and examine witnesses, and present evidence; and
- (4) Each witness shall testify under oath or affirmation and be subject to cross-examination.

(b1) A probable cause hearing conducted in any case in which a juvenile was 13, 14, or 15 years of age at the time the juvenile allegedly committed an offense that would be a Class A felony if committed by an adult or in any case in which a juvenile was 16 or 17 years of age at the time the juvenile allegedly committed an offense that would be a Class F or G felony if committed by an adult shall be conducted within 90 days of the date of the juvenile's first appearance. The court may continue the hearing for good cause.

(c) The State shall by nonhearsay evidence, or by evidence that satisfies an exception to the hearsay rule, show that there is probable cause to believe that the offense charged has been committed and that there is probable cause to believe that the juvenile committed it, except:

- (1) A report or copy of a report made by a physicist, chemist, firearms identification expert, fingerprint technician, or an expert or technician in some other scientific, professional, or medical field, concerning the results of an examination, comparison, or test performed in connection with the case in issue, when stated in a report by that person, is admissible in evidence;
- (2) If there is no serious contest, reliable hearsay is admissible to prove value, ownership of property, possession of property in a person other than the juvenile, lack of consent of the owner, possessor, or custodian of property to the breaking or entering of premises, chain of custody, and authenticity of signatures.

(d) Counsel for the juvenile may waive in writing the right to the hearing and stipulate to a finding of probable cause.

(e) If probable cause is found and transfer to superior court is not required by G.S. 7B-2200 or G.S. 7B-2200.5, upon motion of the prosecutor or the juvenile's attorney or upon its own motion, the court shall either proceed to a transfer hearing or set a date for that hearing. If the juvenile has not received notice of the intention to seek transfer at least five days prior to the probable cause hearing, the court, at the request of the juvenile, shall continue the transfer hearing.

(f) If the court does not find probable cause for a felony offense, the court shall:

- (1) Dismiss the proceeding, or
- (2) If the court finds probable cause to believe that the juvenile committed a lesser included offense that would constitute a misdemeanor if committed by an adult, either proceed to an adjudicatory hearing or set a date for that hearing. The adjudicatory hearing shall be a separate hearing. The court may continue the adjudicatory hearing for good cause. (1979, c. 815, s. 1; 1981, c. 469, ss. 15, 16; 1994, Ex. Sess., c. 22, s. 26; 1998-202, s. 6; 2015-58, s. 1.2; 2017-57, s.

16D.4(f); 2018-142, s. 23(b); 2019-186, s. 8(b); 2023-114, s. 1(c); 2024-17, s. 2(e).)