

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 111

Short Title: Open Records and Publish Identity of Juv.

(Public)

Sponsors: Representatives Ives; Beall, Decker, Gardner, R. Hunter, Justus, K. Miller, Mitchell, Nichols, Russell, Shubert, and Sutton.

Referred to: Judiciary II.

February 6, 1995

A BILL TO BE ENTITLED

AN ACT TO OPEN THE COURT RECORDS AND PUBLISH THE IDENTITY OF JUVENILES WHO HAVE COMMITTED A-E FELONIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-675 reads as rewritten:

"§ 7A-675. Confidentiality of records.

(a) The clerk of superior court shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record, ~~which~~ which, ~~except as provided in this subsection,~~ shall be withheld from public inspection ~~and, except as provided in this subsection,~~ and may be examined only by order of the judge. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the judge.

The following persons may examine the juvenile's record without an order of the judge:

1 (1) The juvenile, the juvenile's parent, guardian, or custodian, or another  
2 authorized representative of the juvenile.

3 (2) The prosecutor in a subsequent criminal proceeding against the juvenile.

4 The juvenile's record of an adjudication of delinquency for an offense that would be a  
5 Class A, B, C, D, or E felony if committed by an adult may be used in a subsequent  
6 criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove  
7 an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-1340.16(d), or  
8 ~~G.S. 15A-2000(e)~~. G.S. 15A-2000(e), and shall be open for public inspection. ~~The record~~  
9 ~~may be so used only by order of the judge in the subsequent criminal proceeding, upon motion of~~  
10 ~~the prosecutor, after an in camera hearing to determine whether the record in question is~~  
11 ~~admissible.~~

12 (b) The Chief Court Counselor shall maintain a record of the cases of juveniles  
13 under supervision by court counselors which shall include family background  
14 information; reports of social, medical, psychiatric, or psychological information  
15 concerning a juvenile or his family; a record of the probation reports of a juvenile;  
16 interviews with ~~his~~ the juvenile's family; or other information which the judge finds  
17 should be protected from public inspection in the best interest of the juvenile.

18 (c) The Director of the Department of Social Services shall maintain a record of  
19 the cases of juveniles under protective custody by ~~his~~ the Department or under placement  
20 by the court. This file shall include material similar in nature to that described in  
21 subsection ~~(b)~~. (b) of this section.

22 (d) The records maintained pursuant to subsections (b) and (c) of this section may  
23 be examined only by order of the judge except that the juvenile shall have the right to  
24 examine them.

25 (e) Law-enforcement records and files concerning a juvenile shall be kept separate  
26 from the records and files of adults except in proceedings when jurisdiction of a juvenile  
27 is transferred to superior court. Law-enforcement records and files concerning juveniles  
28 shall be open only to the inspection of the prosecutor, court counselors, the juvenile, ~~his~~  
29 and the juvenile's parent, guardian, and custodian.

30 (f) All records and files maintained by the Division of Youth Services shall be  
31 withheld from public inspection and shall be open only to the inspection of the juvenile,  
32 professionals in that agency who are directly involved in the juvenile's case, and court  
33 counselors. The judge authorizing commitment of a juvenile shall have the right to  
34 inspect and order the release of records maintained by the Division of Youth Services on  
35 that juvenile.

36 (g) Disclosure of information concerning any juvenile under investigation or  
37 alleged to be within the jurisdiction of the court that would reveal the identity of that  
38 juvenile is prohibited except ~~that that~~:

39 (1) ~~publication~~ Publication of names and pictures of runaways is permitted  
40 with the permission of the parents.

41 (2) Upon a determination by the district attorney for the jurisdiction that  
42 publication of the name and picture of the juvenile under investigation  
43 of an offense that would be a Class A, B, C, D, or E felony if committed

1           by an adult is necessary to further the investigation, the juvenile's name  
2           and picture may be published to appropriate law enforcement agencies.

3           (3) Upon a determination by the district attorney for the jurisdiction that  
4           publication of the name and picture of the juvenile under investigation  
5           of an offense that would be a Class A, B, C, D, or E felony if committed  
6           by an adult is necessary to lead to the apprehension of a juvenile, the  
7           juvenile's name and picture may be published.

8           (h) Nothing in this section shall preclude the necessary sharing of information  
9 among authorized agencies.

10           (i) In the case of a child victim, a judge may order the sharing of information  
11 among ~~such~~the public agencies as the judge deems necessary to reduce the trauma to the  
12 child victim."

13           Sec. 2. G.S. 7A-596 reads as rewritten:

14 **"§ 7A-596. Authority to issue nontestimonial identification order where juvenile**  
15 **alleged to be delinquent.**

16           Nontestimonial identification procedures shall not be conducted on any juvenile  
17 without a court order issued pursuant to this Article unless the juvenile has been  
18 transferred to superior court for trial as an ~~adult~~adult, or the juvenile has allegedly  
19 committed an offense that would be a Class A, B, C, D, or E felony if committed by an  
20 adult, in which case procedures applicable to adults as set out in Articles 14 and 23 of  
21 Chapter 15A shall apply. A nontestimonial identification order authorized by this Article  
22 may be issued by any judge of the district court or of the superior court upon request of a  
23 prosecutor. As used in this Article, 'nontestimonial identification' means identification by  
24 fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens,  
25 saliva samples, hair samples, or other reasonable physical examination, handwriting  
26 exemplars, voice samples, photographs, and lineups or similar identification procedures  
27 requiring the presence of a juvenile."

28           Sec. 3. G.S. 7A-601(3) reads as rewritten:

29           "(3) If a juvenile 13 years of age or older is found to have committed a  
30 delinquent act that would be a felony if committed by an adult, all  
31 records resulting from ~~a~~nontestimonial order ~~identification~~ procedures  
32 may be retained in the court file. Special precautions shall be taken to  
33 ensure that these records will be maintained in such a manner and under  
34 such safeguards as to limit their use to inspection for comparison  
35 purposes by law-enforcement officers only in the investigation of a  
36 ~~crime~~crime, except that the name and picture of a juvenile resulting  
37 from a nontestimonial identification procedure may be published as  
38 provided in G.S. 7A-675(g)."

39           Sec. 4. This act becomes effective October 1, 1995, and applies to offenses  
40 committed on or after that date.