

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1026

Short Title: Open Records/Identity of Juveniles.

(Public)

Sponsors: Senators Blust; Allran, Ballantine, Carpenter, Carrington, Clark, Cochrane, East, Forrester, Foxx, Gulley, Hartsell, Horton, Jenkins, Kerr, Ledbetter, Lucas, McDaniel, Page, Rand, Rucho, and Shaw of Guilford.

Referred to: Judiciary.

April 21, 1997

A BILL TO BE ENTITLED

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2 AN ACT TO PROVIDE FOR THE INDEXING OF CERTAIN OFFENSES
3 COMMITTED BY JUVENILES, TO PUBLISH THE IDENTITY OF CERTAIN
4 JUVENILES WHO HAVE COMMITTED A-E FELONIES, AND TO MAINTAIN
5 RECORDS OF CERTAIN JUVENILES.

6 The General Assembly of North Carolina enacts:

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

8 **"§ 7A-675. Confidentiality of records.**

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

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

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

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

6 The juvenile's record of an adjudication of delinquency for an offense that would be a
7 Class A, B1, B2, C, D, or E felony if committed by an adult may be used in a subsequent
8 criminal proceeding against the juvenile either under G.S. 8C-1, Rule 404(b), or to prove
9 an aggravating factor at sentencing under G.S. 15A-1340.4(a), G.S. 15A-1340.16(d), or
10 G.S. 15A-2000(e). The record may be so used only by order of the judge in the
11 subsequent criminal proceeding, upon motion of the prosecutor, after an in camera
12 hearing to determine whether the record in question is admissible.

13 (a1) Notwithstanding the provisions of subsection (a) of this section, an
14 adjudication of delinquency shall be indexed by the clerk of superior court in the regular
15 public index to criminal dispositions maintained pursuant to G.S. 7A-109. This
16 subsection shall apply only to an adjudication of delinquency for an offense that, if
17 committed by an adult, would be one of the following:

18 (1) Murder under G.S. 14-17;

19 (2) A sex offense under Article 7A of Chapter 14;

20 (3) Kidnapping under G.S. 14-39;

21 (4) Robbery with a firearm or other dangerous weapon under G.S. 14-87;

22 (5) Assault with a deadly weapon with intent to kill inflicting serious injury
23 under G.S. 14-32(a);

24 (6) Assault with a deadly weapon with intent to kill under G.S. 14-32(c).

25 Upon motion of the juvenile or the district attorney, the judge may order the clerk not to
26 index the juvenile's adjudication of delinquency if the interest of justice requires that the
27 juvenile's adjudication be protected from public inspection.

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

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

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

41 (e) Law-enforcement records and files concerning a juvenile shall be kept separate
42 from the records and files of adults except in proceedings when jurisdiction of a juvenile
43 is transferred to superior court. Law-enforcement records and files concerning juveniles

1 shall be open only to the inspection of the prosecutor, court counselors, the juvenile, his
2 and the juvenile's parent, guardian, and custodian.

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

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

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

14 (2) Upon a determination by the district attorney for the jurisdiction that
15 publication of the name and picture of the juvenile under investigation
16 of an offense that would be a Class A, B, C, D, or E felony if committed
17 by an adult is necessary to further the investigation, the juvenile's name
18 and picture may be published to appropriate law enforcement agencies.

19 (3) Upon a determination by the chief district court judge or a juvenile court
20 judge for the jurisdiction that publication of the name and picture of the
21 juvenile under investigation of an offense that would be a Class A, B, C,
22 D, or E felony if committed by an adult is necessary to lead to the
23 apprehension of a juvenile, the juvenile's name and picture may be
24 published.

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

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

30 (j) Notwithstanding subsection (a) of this section, the court's entire record of a
31 proceeding involving consent for an abortion on an unemancipated minor under Article
32 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be
33 maintained separately from any juvenile record, shall be withheld from public inspection,
34 and may be examined only by order of the court, by the unemancipated minor, or by the
35 unemancipated minor's attorney or guardian ad litem."

36 Section 2. G.S. 7A-596 reads as rewritten:

37 "**§ 7A-596. Authority to issue nontestimonial identification order where juvenile**
38 **alleged to be delinquent. delinquent and to conduct certain procedures**
39 **without an order.**

40 (a) Nontestimonial identification procedures shall not be conducted on any
41 juvenile without a court order issued pursuant to this Article unless the juvenile has been
42 transferred to superior court for trial as an adult in which case procedures applicable to
43 adults as set out in Articles 14 and 23 of Chapter 15A shall apply. A nontestimonial

1 identification order authorized by this Article may be issued by any judge of the district
2 court or of the superior court upon request of a prosecutor. As used in this Article,
3 'nontestimonial identification' means identification by fingerprints, palm prints,
4 footprints, measurements, blood specimens, urine specimens, saliva samples, hair
5 samples, or other reasonable physical examination, handwriting exemplars, voice
6 samples, photographs, and lineups or similar identification procedures requiring the
7 presence of a juvenile.

8 (b) Notwithstanding the provisions of subsection (a) of this section, a juvenile who
9 is taken into custody for an offense that would be a Class A, B, C, D, or E felony may be
10 photographed and the juvenile's fingerprints may be taken."

11 Section 3. G.S. 7A-601(3) reads as rewritten:

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

22 Section 4. This act becomes effective October 1, 1997, and applies to acts
23 committed on or after that date.