

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

2

SENATE BILL 1082
Judiciary II Committee Substitute Adopted 4/20/09

Short Title: Juvenile Records/Probation Risk Assessment.

(Public)

Sponsors:

Referred to:

March 31, 2009

A BILL TO BE ENTITLED

AN ACT TO: (1) ALLOW PROBATION OFFICERS IN THE DIVISION OF COMMUNITY CORRECTIONS ACCESS TO THE JUVENILE RECORDS OF PERSONS SUBJECT TO PROBATION UNDER THEIR SUPERVISION FOR THE PURPOSE OF DETERMINING RISK ASSESSMENT FOR PROBATION; AND (2) ADD THE DIVISION OF COMMUNITY CORRECTIONS TO A LIST OF AGENCIES AUTHORIZED TO SHARE CERTAIN INFORMATION CONCERNING JUVENILES WITH ONE ANOTHER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-3000 reads as rewritten:

"§ 7B-3000. Juvenile court records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record. The record shall include the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders, or papers filed in the proceeding.

(b) All juvenile records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. Except as provided in subsection (c) of this section, the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

- (1) The juvenile;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor; ~~and~~
- (4) ~~Court eounselors;counselors; and~~
- (5) Probation officers in the Division of Community Corrections of the Department of Correction in accordance with subsection (e1) of this section and G.S. 15A-1341(e).

Except as provided in subsection (c) of this section, the prosecutor may, in the prosecutor's discretion, share information obtained from a juvenile's record with law enforcement officers sworn in this State, but may not allow a law enforcement officer to photocopy any part of the record.

(c) The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT", or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.



* S 1 0 8 2 - V - 2 *

1 (d) Any portion of a juvenile's record consisting of an electronic or mechanical
2 recording of a hearing shall be transcribed only when notice of appeal has been timely given
3 and shall be copied electronically or mechanically, only by order of the court. After the time for
4 appeal has expired with no appeal having been filed, the court may enter a written order
5 directing the clerk to destroy the recording of the hearing.

6 (e) The juvenile's record of an adjudication of delinquency for an offense that would be
7 a felony if committed by an adult may be used by law enforcement, the magistrate, and the
8 prosecutor for pretrial release and plea negotiating decisions.

9 (e1) A probation officer in the Division of Community Corrections assigned to supervise
10 a person subject to probation under Article 82 of Chapter 15A of the General Statutes may
11 examine the person's juvenile record without a court order at any time during which the person
12 is subject to probation for the purpose of determining risk assessment.

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

20 (g) Except as provided in subsection (d) of this section, a juvenile's record shall be
21 destroyed only as authorized by G.S. 7B-3200 or by rules adopted by the Administrative Office
22 of the Courts."

23 **SECTION 2.** G.S. 7B-3100(a) reads as rewritten:

24 "(a) The Department, after consultation with the Conference of Chief District Court
25 Judges, shall adopt rules designating certain local agencies that are authorized to share
26 information concerning juveniles in accordance with the provisions of this section. Agencies so
27 designated shall share with one another, upon request and to the extent permitted by federal law
28 and regulations, information that is in their possession that is relevant to any assessment of a
29 report of child abuse, neglect, or dependency or the provision or arrangement of protective
30 services in a child abuse, neglect, or dependency case by a local department of social services
31 pursuant to the authority granted under Chapter 7B of the General Statutes or to any case in
32 which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined,
33 or delinquent and shall continue to do so until the protective services case is closed by the local
34 department of social services, or if a petition is filed when the juvenile is no longer subject to
35 the jurisdiction of juvenile court. Agencies that may be designated as "agencies authorized to
36 share information" include local mental health facilities, local health departments, local
37 departments of social services, local law enforcement agencies, local school administrative
38 units, the district's district attorney's office, the Department of Juvenile Justice and Delinquency
39 Prevention, the Division of Community Corrections of the Department of Correction, and the
40 Office of Guardian ad Litem Services of the Administrative Office of the Courts. Any
41 information shared among agencies pursuant to this section shall remain confidential, shall be
42 withheld from public inspection, and shall be used only for the protection of the juvenile and
43 others or to improve the educational opportunities of the juvenile, and shall be released in
44 accordance with the provisions of the Family Educational and Privacy Rights Act as set forth in
45 20 U.S.C. § 1232g. Nothing in this section or any other provision of law shall preclude any
46 other necessary sharing of information among agencies. Nothing herein shall be deemed to
47 require the disclosure or release of any information in the possession of a district attorney."

48 **SECTION 3.** G.S. 15A-1341 is amended by adding a new subsection to read:

49 "(e) Review of Defendant's Juvenile Record. – The probation officer assigned to the
50 defendant may examine the defendant's juvenile record in a manner consistent with
51 G.S. 7B-3000(e1)."

1 **SECTION 4.** This act becomes effective December 1, 2009, and applies to
2 offenses committed on or after that date.