

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 984

Short Title: Access to Juvenile Records/Violent Offenders. (Public)

Sponsors: Senators McKissick; Berger of Rockingham, Clary, Hunt, and Rand.

Referred to: Judiciary I.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE JUVENILE CODE REGARDING ACCESS TO AND USE OF
3 JUVENILE COURT RECORDS WHEN THE INDIVIDUAL IS LATER CHARGED AS
4 AN ADULT IN A CRIMINAL PROCEEDING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 7B-1501 is amended by adding the following new subdivision
7 to read:

8 "In this Subchapter, unless the context clearly requires otherwise, the following words have
9 the listed meanings. The singular includes the plural, unless otherwise specified.

10 ...

11 (18b) Juvenile record sheet. – A list of a juvenile's adjudications of delinquency
12 occurring within 18 months after the juvenile is 16 years of age for an
13 offense that would be a Class A-1 misdemeanor or a felony if committed by
14 an adult. The list shall include only:

15 a. The name of the county and the juvenile file number;

16 b. The juvenile's name and date of birth;

17 c. The dates of the adjudications;

18 d. The offenses for which the juvenile was adjudicated delinquent; and

19 e. The dates the adjudicated offenses were committed.

20"

21 **SECTION 2.** G.S. 7B-1501(23) reads as rewritten:

22 "In this Subchapter, unless the context clearly requires otherwise, the following words have
23 the listed meanings. The singular includes the plural, unless otherwise specified.

24 ...

25 (23) Prosecutor. – The district attorney or an assistant district attorney assigned
26 by the district attorney to juvenile proceedings.

27"

28 **SECTION 3.** G.S. 7B-3000 reads as rewritten:

29 "§ 7B-3000. Juvenile court records.

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

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



- 1 (1) The juvenile;
- 2 (2) The juvenile's parent, guardian, or custodian, or the authorized representative
- 3 of the juvenile's parent, guardian, or custodian;
- 4 (3) The prosecutor; and
- 5 (4) Court counselors.

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

10 (b1) In addition to persons listed in subsection (b) of this section, magistrates and law
11 enforcement officers sworn in this State may obtain copies of a juvenile's record sheet, without
12 a court order, for purposes authorized by G.S. 7B-3002.

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

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

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

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

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

36 **SECTION 4.** G.S. 7B-3001 reads as rewritten:

37 **"§ 7B-3001. Other records relating to juveniles.**

38 (a) The chief court counselor shall maintain a record of all cases of juveniles under
39 supervision of juvenile court counselors, to be known as the juvenile court counselor's record.
40 The juvenile court counselor's record shall include family background information; reports of
41 social, medical, psychiatric, or psychological information concerning a juvenile or the
42 juvenile's family; probation reports; interviews with the juvenile's family; or other information
43 the court finds should be protected from public inspection in the best interests of the juvenile.

44 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all law
45 enforcement records and files concerning a juvenile shall be kept separate from the records and
46 files of adults and shall be withheld from public inspection. The following persons may
47 examine and obtain copies of law enforcement records and files concerning a juvenile without
48 an order of the court:

- 49 (1) The juvenile;
- 50 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
- 51 the juvenile's parent, guardian, or custodian;

- 1 (3) The ~~district attorney or~~ prosecutor;
2 (4) Juvenile court counselors; and
3 (5) Law enforcement officers sworn in this State.

4 Otherwise, the records and files may be examined or copied only by order of the court.

5 (c) All records and files maintained by the Department pursuant to this Chapter shall be
6 withheld from public inspection. The following persons may examine and obtain copies of the
7 Department records and files concerning a juvenile without an order of the court:

- 8 (1) The juvenile and the juvenile's attorney;
9 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
10 the juvenile's parent, guardian, or custodian;
11 (3) Professionals in the agency who are directly involved in the juvenile's case;
12 and
13 (4) Juvenile court counselors.

14 After a complaint has been approved for filing as a petition, the juvenile court counselor may
15 share with the prosecutor any records or information the prosecutor deems necessary to
16 represent the State at any stage of the delinquency proceeding. Otherwise, the records and files
17 may be examined or copied only by order of the court. The court may inspect and order the
18 release of records maintained by the Department."

19 **SECTION 5.** Article 30 of Chapter 7B of the General Statutes is amended by
20 adding the following new section to read:

21 **"§ 7B-3002. Use of juvenile court records in certain criminal proceedings.**

22 (a) Notwithstanding any other provision of law, a juvenile's record sheet and the
23 information contained in the record sheet may be used by law enforcement, the magistrate, the
24 courts, and the prosecutor for pretrial release, plea negotiating decisions, and plea acceptance
25 decisions, in a criminal proceeding involving a Class A-1 misdemeanor or a felony.

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

33 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
34 offenses committed on or after that date.