

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 984
Judiciary I Committee Substitute Adopted 5/7/09

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

Sponsors:

Referred to:

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 for any offense that would be a Class A1 misdemeanor or a felony if
13 committed by an adult. The list shall include only:

- 14 a. Adjudications that occurred 18 months or less before the juvenile
15 reached 16 years of age and adjudications that occurred after the
16 juvenile reached 16 years of age.
17 b. The name of the county and the juvenile file number.
18 c. The juvenile's name and date of birth.
19 d. The dates of the adjudications.
20 e. The offenses for which the juvenile was adjudicated delinquent.
21 f. The dates the adjudicated offenses were committed.

22"

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

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

26 ...

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

29"

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

31 "§ 7B-3000. Juvenile court records.

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

36 (b) All juvenile records shall be withheld from public inspection and, except as
37 provided in this ~~subsection~~, section, may be examined only by order of the court. Except as



1 provided in subsection (c) of this section, the following persons may examine the juvenile's
2 record and obtain copies of written parts of the record without an order of the court:

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

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

12 (b1) In addition to persons listed in subsection (b) of this section, magistrates and law
13 enforcement officers sworn in this State may obtain copies of a juvenile record sheet, without a
14 court order, for use as authorized by G.S. 7B-3002(a). Any juvenile record sheet obtained
15 pursuant to this subsection shall continue to be withheld from public inspection and shall not
16 become part of the public record in any criminal proceeding.

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

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

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

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

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

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

41 "**§ 7B-3001. Other records relating to juveniles.**

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

48 (b) Unless jurisdiction of the juvenile has been transferred to superior court, all law
49 enforcement records and files concerning a juvenile shall be kept separate from the records and
50 files of adults and shall be withheld from public inspection. The following persons may

1 examine and obtain copies of law enforcement records and files concerning a juvenile without
2 an order of the court:

- 3 (1) The juvenile;
- 4 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
5 the juvenile's parent, guardian, or custodian;
- 6 (3) The ~~district attorney~~ or prosecutor;
- 7 (4) Juvenile court counselors; and
- 8 (5) Law enforcement officers sworn in this State.

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

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

- 13 (1) The juvenile and the juvenile's attorney;
- 14 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
15 the juvenile's parent, guardian, or custodian;
- 16 (3) Professionals in the agency who are directly involved in the juvenile's case;
17 and
- 18 (4) Juvenile court counselors.

19 Otherwise, the records and files may be examined or copied only by order of the court. The
20 court may inspect and order the release of records maintained by the Department."

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

23 "**§ 7B-3002. Use of juvenile court records in certain criminal proceedings.**

24 (a) Notwithstanding any other provision of law, if the defendant in a criminal
25 proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the
26 time of the offense, a juvenile record sheet and the information contained in the record sheet
27 may be used by law enforcement, the magistrate, the courts, and the prosecutor for pretrial
28 release, plea negotiating decisions, and plea acceptance decisions.

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

36 **SECTION 6.** This act becomes effective December 1, 2009, and applies to
37 offenses committed on or after that date. The juvenile record sheets created in Section 1 of this
38 act shall contain adjudications of delinquency occurring prior to the effective date of this act;
39 however, the juvenile record sheets may only be accessed and used pursuant to this act for
40 offenses committed on or after December 1, 2009.