

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 27\*  
Committee Substitute Favorable 2/18/94  
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Short Title: Limited Use/Certain Juv. Records.

(Public)

Sponsors:

Referred to: Judiciary III.

February 8, 1994

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A COURT MAY ORDER THAT JUVENILE RECORDS OF JUVENILES ADJUDICATED OR CONVICTED OF CLASS A - E FELONIES MAY BE USED AT A SUBSEQUENT CRIMINAL TRIAL EITHER IN THE GUILT PHASE OR TO PROVE AN AGGRAVATING FACTOR AT SENTENCING.

The General Assembly of North Carolina enacts:

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

"(a) The clerk of superior court shall maintain a complete record of all juvenile cases filed in ~~his~~ the clerk's office to be known as the juvenile record, which shall be withheld from public inspection ~~and~~ and, except as provided in this subsection, may be examined only by order of the judge. ~~judge, except that the juvenile, his parent, guardian, custodian, or other authorized representative of the juvenile shall have a right to examine the juvenile's record.~~ 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  
4           juvenile.

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

12           Sec. 2. G.S. 7A-676(b) reads as rewritten:

13           "(b) Any person who has attained the age of 16 years may file a petition in the  
14 court where ~~he~~the person was adjudicated delinquent for expunction of all records of  
15 that adjudication provided:

16           (1) The offense for which ~~he~~the person was adjudicated would have been  
17 a crime other than a Class A, B, C, D, or E felony if committed by an  
18 adult.

19           (2) The person has not subsequently been adjudicated delinquent or  
20 convicted as an adult of any felony or misdemeanor other than a traffic  
21 violation under the laws of the United States or the laws of this State  
22 or any other state.

23           Records relating to an adjudication for an offense that would be a Class A, B, C, D,  
24           or E felony if committed by an adult shall not be expunged."

25           Sec. 3. G.S. 8C-1, Rule 404(b) reads as rewritten:

26           "(b) Other crimes, wrongs, or acts. – Evidence of other crimes, wrongs, or acts is  
27 not admissible to prove the character of a person in order to show that he acted in  
28 conformity therewith. It may, however, be admissible for other purposes, such as proof  
29 of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of  
30 mistake, entrapment or accident. Admissible evidence may include evidence of an  
31 offense committed by a juvenile if it would have been a Class A, B, C, D, or E felony if  
32 committed by an adult."

33           Sec. 4. G.S. 15A-1340.4(a)(1) reads as rewritten:

34           "(1) Aggravating factors:

35           a. The defendant induced others to participate in the commission  
36 of the offense or occupied a position of leadership or  
37 dominance of other participants.

38           b. The offense was committed for the purpose of avoiding or  
39 preventing a lawful arrest or effecting an escape from custody.

40           c. The defendant was hired or paid to commit the offense.

41           d. The offense was committed to disrupt or hinder the lawful  
42 exercise of any governmental function or the enforcement of  
43 laws.

- 1 e. The offense was committed against a present or former: law  
2 enforcement officer, employee of the Department of Correction,  
3 jailer, fireman, emergency medical technician, ambulance  
4 attendant, justice or judge, clerk or assistant or deputy clerk of  
5 court, magistrate, prosecutor, juror, or witness against the  
6 defendant, while engaged in the performance of his official  
7 duties or because of the exercise of his official duties.
- 8 f. The offense was especially heinous, atrocious, or cruel.
- 9 g. The defendant knowingly created a great risk of death to more  
10 than one person by means of a weapon or device which would  
11 normally be hazardous to the lives of more than one person.
- 12 h. The defendant held public office at the time of the offense and  
13 the offense related to the conduct of the office.
- 14 i. The defendant was armed with or used a deadly weapon at the  
15 time of the crime.
- 16 j. The victim was very young, or very old, or mentally or  
17 physically infirm.
- 18 k. The defendant committed the offense while on pretrial release  
19 on another felony charge.
- 20 l. The defendant involved a person under the age of 16 in the  
21 commission of the crime.
- 22 m. The offense involved an attempted or actual taking of property  
23 of great monetary value or damage causing great monetary loss,  
24 or the offense involved an unusually large quantity of  
25 contraband.
- 26 n. The defendant took advantage of a position of trust or  
27 confidence to commit the offense.
- 28 o. The defendant has a prior conviction or convictions for criminal  
29 offenses punishable by more than 60 days' confinement. Such  
30 convictions include those occurring in North Carolina courts  
31 and courts of other states, the District of Columbia, and the  
32 United States, provided that any crime for which the defendant  
33 was convicted in a jurisdiction other than North Carolina would  
34 have been a crime if committed in this State. Such prior  
35 convictions do not include any crime that is joinable, under G.S.  
36 Chapter 15A, with the crime or crimes for which the defendant  
37 is currently being sentenced. For the purpose of this  
38 subdivision, a prior conviction includes an adjudication of  
39 delinquency for an offense that would be a Class A, B, C, D, or  
40 E felony if committed by an adult.
- 41 p. The offense involved the sale or delivery of a controlled  
42 substance to a minor.
- 43 q. The offense was committed because of the race, color, religion,  
44 nationality, or country of origin of another person.

1                   r.       The offense for which the defendant stands convicted was  
2                               committed against a victim because of the victim's race, color,  
3                               religion, nationality, or country of origin.

4       Evidence necessary to prove an element of the offense may not be used to prove any  
5       factor in aggravation, and the same item of evidence may not be used to prove more  
6       than one factor in aggravation.

7       The judge may not consider as an aggravating factor the fact that the defendant  
8       exercised his right to a jury trial."

9               Sec. 5. G.S. 15A-2000(e) reads as rewritten:

10       "(e) Aggravating Circumstances. – Aggravating circumstances which may be  
11       considered shall be limited to the following:

12           (1)    The capital felony was committed by a person lawfully incarcerated.

13           (2)    The defendant had been previously convicted of another capital ~~felony~~  
14                   felony or had been previously adjudicated delinquent in a juvenile  
15                   proceeding for committing an offense that would be a capital felony if  
16                   committed by an adult.

17           (3)    The defendant had been previously convicted of a felony involving the  
18                   use or threat of violence to the ~~person~~ person or had been previously  
19                   adjudicated delinquent in a juvenile proceeding for committing an  
20                   offense that would be a Class A, B, C, D, or E felony involving the use  
21                   or threat of violence to the person if the offense had been committed  
22                   by an adult.

23           (4)    The capital felony was committed for the purpose of avoiding or  
24                   preventing a lawful arrest or effecting an escape from custody.

25           (5)    The capital felony was committed while the defendant was engaged, or  
26                   was an aider or abettor, in the commission of, or an attempt to commit,  
27                   or flight after committing or attempting to commit, any homicide,  
28                   robbery, rape or a sex offense, arson, burglary, kidnapping, or aircraft  
29                   piracy or the unlawful throwing, placing, or discharging of a  
30                   destructive device or bomb.

31           (6)    The capital felony was committed for pecuniary gain.

32           (7)    The capital felony was committed to disrupt or hinder the lawful  
33                   exercise of any governmental function or the enforcement of laws.

34           (8)    The capital felony was committed against a law-enforcement officer,  
35                   employee of the Department of Correction, jailer, fireman, judge or  
36                   justice, former judge or justice, prosecutor or former prosecutor, juror  
37                   or former juror, or witness or former witness against the defendant,  
38                   while engaged in the performance of his official duties or because of  
39                   the exercise of his official duty.

40           (9)    The capital felony was especially heinous, atrocious, or cruel.

41           (10)   The defendant knowingly created a great risk of death to more than  
42                   one person by means of a weapon or device which would normally be  
43                   hazardous to the lives of more than one person.

1 (11) The murder for which the defendant stands convicted was part of a  
2 course of conduct in which the defendant engaged and which included  
3 the commission by the defendant of other crimes of violence against  
4 another person or persons."

5 Sec. 6. G.S. 15A-1340.16(d) is amended by adding a new subdivision to  
6 read:

7 "(18a) The defendant has previously been adjudicated delinquent for an  
8 offense that would be a Class A, B, C, D, or E felony if committed by  
9 an adult."

10 Sec. 7. Section 6 of this act becomes effective on the date that G.S. 15A-  
11 1340.16 becomes effective and applies to offenses committed on or after that date. The  
12 remainder of this act becomes effective May 1, 1994. Sections 1, 2, 4, and 5 of this act  
13 apply to offenses committed on or after that date. Section 3 of this act applies to trials  
14 begun on or after that date.