

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 993

Short Title: Fingerprint/Photo. Juv./AB.

(Public)

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Sponsors: Senator Cooper.

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Referred to: Judiciary I/Constitution

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May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE THAT JUVENILES BE FINGERPRINTED AND  
2 PHOTOGRAPHED UPON ADJUDICATION OF DELINQUENCY FOR AN  
3 OFFENSE THAT WOULD BE A CLASS A, B, C, D, OR E FELONY IF  
4 COMMITTED BY AN ADULT, TO OPEN JUVENILE RECORDS IN CERTAIN  
5 CIRCUMSTANCES, TO ALLOW PUBLICATION OF THE NAMES AND  
6 PICTURES OF CERTAIN JUVENILES, AND TO CLARIFY THAT  
7 NONTESTIMONIAL IDENTIFICATION PROCEDURES SET FORTH IN THE  
8 JUVENILE CODE DO NOT APPLY TO CRIMINAL DEFENDANTS WHO ARE  
9 SIXTEEN AND SEVENTEEN YEARS OF AGE.  
10

11 The General Assembly of North Carolina enacts:

12 Section 1. Article 48 of Chapter 7A of the General Statutes is amended by  
13 adding a new section to read:

14 **"§ 7A-603. Fingerprinting and photographing delinquent juveniles.**

15 (a) A juvenile shall be fingerprinted and photographed by a law enforcement  
16 officer or agency upon adjudication of the juvenile as a delinquent pursuant to G.S. 7A-  
17 637 for an offense that would be a Class A, B, C, D, or E felony if committed by an adult.  
18 Upon adjudication, the court shall order the juvenile be fingerprinted and photographed  
19 unless the juvenile has been fingerprinted and photographed previously and the

1 fingerprints and photographs are in a proper format for transfer to the State Bureau of  
2 Investigation.

3 (b) Fingerprints obtained pursuant to this section shall be transferred to the State  
4 Bureau of Investigation in a format approved by the State Bureau of Investigation and  
5 placed in the Automated Fingerprint Identification System (AFIS) to be used for all  
6 investigation and comparison purposes. Photographs shall be placed in a format approved  
7 by the State Bureau of Investigation and may be used for all investigative or comparison  
8 purposes.

9 (c) Fingerprints and photographs taken pursuant to this section shall not be  
10 included in the clerk's record pursuant to G.S. 7A-675 and shall not be eligible for  
11 expunction pursuant to G.S. 7A-676."

12 Sec. 2. G.S. 7A-596 reads as rewritten:

13 "**§ 7A-596. Authority to issue nontestimonial identification order where juvenile**  
14 **alleged to be delinquent.**

15 Nontestimonial identification procedures shall not be conducted on any juvenile  
16 alleged to be delinquent without a court order issued pursuant to this Article unless the  
17 juvenile has been transferred to superior court for trial as an adult in which case  
18 procedures applicable to adults as set out in Articles 14 and 23 of Chapter 15A shall  
19 apply. A nontestimonial identification order authorized by this Article may be issued by  
20 any judge of the district court or of the superior court upon request of a prosecutor. As  
21 used in this Article, 'nontestimonial identification' means identification by fingerprints,  
22 palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples,  
23 hair samples, or other reasonable physical examination, handwriting exemplars, voice  
24 samples, photographs, and lineups or similar identification procedures requiring the  
25 presence of a juvenile."

26 Sec. 3. G.S. 7A-597 reads as rewritten:

27 "**§ 7A-597. Time of application for nontestimonial identification order.**

28 A request for a nontestimonial identification order may be made prior to taking a  
29 juvenile alleged to be delinquent into custody or after custody and prior to the  
30 adjudicatory hearing."

31 Sec. 4. G.S. 7A-675 reads as rewritten:

32 "**§ 7A-675. Confidentiality of records.**

33 (a) The clerk of superior court shall maintain a complete record of all juvenile  
34 cases filed in the clerk's office to be known as the juvenile record, which shall be  
35 withheld from public inspection ~~and, except as provided in this subsection, may be examined~~  
36 ~~only by order of the judge.~~ except as provided in this subsection. The record shall include  
37 the summons, petition, custody order, ~~all court order,~~ orders, written motions, search  
38 warrants and related documents, nontestimonial orders and related documents, discovery  
39 documents, written reports, the electronic or mechanical recording of the hearing, and  
40 other papers filed in the proceeding. The recording of the hearing shall be reduced to a  
41 written transcript only when notice of appeal has been timely given. After the time for  
42 appeal has expired with no appeal having been filed, the recording of the hearing may be  
43 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, B, 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 (2) The prosecutor in a criminal proceeding that involves the juvenile.

14 A juvenile's record of an adjudication of delinquency for an offense that would be a  
15 Class A, B, C, D, or E felony if committed by an adult may be used in all subsequent  
16 criminal proceedings for any purpose that an adult conviction may be used.

17 (3) Juvenile court counselors.

18 Except as provided in this subsection, a juvenile's court record may be examined only  
19 by a written order of the judge.

20 (b) The Chief Court Counselor shall maintain a record of the cases of juveniles  
21 under supervision by court counselors which shall include family background  
22 information; reports of social, medical, psychiatric, or psychological information  
23 concerning a juvenile or his family; a record of the probation reports of a juvenile;  
24 interviews with his family; or other information which the judge finds should be  
25 protected from public inspection in the best interest of the juvenile.

26 (c) The Director of the Department of Social Services shall maintain a record of  
27 the cases of juveniles under protective custody by his Department or under placement by  
28 the court. This file shall include material similar in nature to that described in subsection  
29 (b).

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

32 (e) ~~Law enforcement~~ Law enforcement records and files concerning a juvenile  
33 alleged to be delinquent or otherwise alleged to be within the jurisdiction of the juvenile  
34 court shall be kept separate from the records and files of adults except in proceedings when  
35 jurisdiction of a juvenile is transferred to superior court. ~~adults.~~ Law enforcement ~~Law~~  
36 enforcement records and files concerning juveniles shall be open only to the inspection of  
37 the prosecutor, court counselors, the juvenile, ~~his~~ and the juvenile's parent, guardian, and  
38 custodian.

39 (f) All records and files maintained by the Division of Youth Services shall be  
40 withheld from public inspection and shall be open only to the inspection of the juvenile,  
41 professionals in that agency who are directly involved in the juvenile's case, and court  
42 counselors. The judge authorizing commitment of a juvenile shall have the right to

1 inspect and order the release of records maintained by the Division of Youth Services on  
2 that juvenile.

3 (g) Disclosure of information concerning any juvenile alleged to be delinquent  
4 under investigation or alleged to be within the jurisdiction of the court that would reveal  
5 the identity of that juvenile is prohibited except that publication of names and pictures of  
6 runaways is permitted with the permission of the ~~parents.~~ parent, guardian, or legal  
7 custodian.

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

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

13 Sec. 5. G.S. 15A-502(c) reads as rewritten:

14 "(c) This section does not authorize the taking of photographs or fingerprints of a  
15 juvenile alleged to be delinquent except under G.S. 7A-596 through ~~7A-601.~~ 7A-601 and  
16 7A-603."

17 Sec. 6. This act becomes effective October 1, 1995, and applies to offenses  
18 committed on or after that date.