

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 984
Judiciary I Committee Substitute Adopted 5/7/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S984-PCS55507-SA-68

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 JUVENILE
3 COURT RECORDS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 7B-1501(23) reads as rewritten:

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

8 ...

9 (23) Prosecutor. – The district attorney or an assistant district ~~attorney assigned~~
10 ~~by the district attorney to juvenile proceedings~~ attorney.

11"

12 SECTION 2. G.S. 7B-3000 reads as rewritten:

13 "§ 7B-3000. Juvenile court records.

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

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

22 (1) The ~~juvenile~~; juvenile or the juvenile's attorney;

23 (2) The juvenile's parent, guardian, or custodian, or the authorized representative
24 of the juvenile's parent, guardian, or custodian;

25 (3) The prosecutor; and

26 (4) Court counselors.

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

31 (c) The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk
32 shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED:
33 MAY BE EXAMINED ONLY BY ORDER OF THE COURT", or with similar notice, and



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1 shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a
2 court order specifically authorizing inspection or copying.

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

8 (e) Notwithstanding any other provision of law, if the defendant in a criminal
9 proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the
10 time of the offense, information obtained pursuant to subsection (b) of this section regarding
11 the juvenile's record of an adjudication of delinquency for an offense that would be a Class
12 A1 misdemeanor or a felony if committed by an adult, where the adjudication occurred 18
13 months or less before the defendant reached 16 years of age or the adjudication occurred after
14 the defendant reached 16 years of age, may be used by law enforcement, the magistrate, the
15 courts, and the prosecutor for pretrial release and release, plea negotiating decisions, decisions,
16 and plea acceptance decisions. Information obtained regarding any juvenile record shall remain
17 confidential and shall not be placed in any public record.

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

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

28 **SECTION 3.** G.S. 7B-3001 reads as rewritten:

29 **"§ 7B-3001. Other records relating to juveniles.**

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

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

41 (1) ~~The juvenile;~~ juvenile or the juvenile's attorney;

42 (2) The juvenile's parent, guardian, custodian, or the authorized representative of
43 the juvenile's parent, guardian, or custodian;

44 (3) ~~The district attorney or~~ prosecutor;

45 (4) Juvenile court counselors; and

46 (5) Law enforcement officers sworn in this State.

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

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

51 (1) The juvenile and the juvenile's attorney;

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

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

8 **SECTION 4.** G.S. 7B-2411 reads as rewritten:

9 "**§ 7B-2411. Adjudication.**

10 If the court finds that the allegations in the petition have been proved as provided in
11 G.S. 7B-2409, the court shall so ~~state~~state in a written order of adjudication, which shall
12 include, but not be limited to, the date of the offense, the misdemeanor or felony classification
13 of the offense, and the date of adjudication. If the court finds that the allegations have not been
14 proved, the court shall dismiss the petition with prejudice and the juvenile shall be released
15 from secure or nonsecure custody if the juvenile is in custody."

16 **SECTION 5.** The amendments to G.S. 7B-3000(e) in Section 2 of this act become
17 effective December 1, 2009, and apply to offenses committed on or after that date. Section 4 of
18 this act becomes effective December 1, 2009, and applies to adjudications of delinquency
19 entered on or after that date. The remainder of this act becomes effective December 1, 2009.