

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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SENATE BILL 83

Select Committee on Courts Committee Substitute Adopted 2/22/94

Short Title: Juvenile Fingerprints/Photographs.

(Public)

Sponsors:

Referred to: Rules and Operation of the Senate.

February 11, 1994

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE PROHIBITION ON PHOTOGRAPHING AND FINGERPRINTING SIXTEEN- AND SEVENTEEN-YEAR-OLD JUVENILES UNDER THE JURISDICTION OF THE SUPERIOR COURT AND PROVIDING FOR THE AUTOMATIC DESTRUCTION OF SUCH RECORDS FOR ALL PERSONS UNDER EIGHTEEN IF FOUND NOT GUILTY OR CHARGE IS DISMISSED, EXCEPT AS OTHERWISE PROVIDED.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-502 reads as rewritten:

§ 15A-502. Photographs and fingerprints.

(a) A person charged with the commission of a felony or a misdemeanor may be photographed and his fingerprints may be taken for law-enforcement records only when he has been:

- (1) Arrested or committed to a detention facility, or
(2) Committed to imprisonment upon conviction of a crime, or
(3) Convicted of a felony.

It shall be the duty of the arresting law-enforcement agency to cause a person charged with the commission of a felony to be fingerprinted and to forward those fingerprints to the State Bureau of Investigation.

(b) (Effective until January 1, 1995) This section does not authorize the taking of photographs or fingerprints when the offense charged is a misdemeanor under Chapter 20 of the General Statutes, 'Motor Vehicles,' for which the penalty authorized

1 does not exceed a fine of five hundred dollars (\$500.00), imprisonment for six months,
2 or both.

3 (b) **(Effective January 1, 1995)** This section does not authorize the taking of
4 photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor
5 under Chapter 20 of the General Statutes, 'Motor Vehicles.'

6 (c) This section does not authorize the taking of photographs or fingerprints of a
7 juvenile alleged to be delinquent except under G.S. 7A-596 through 7A-601.

8 (d) This section does not prevent the taking of photographs, moving pictures,
9 video or sound recordings, fingerprints, or the like to show a condition of intoxication or
10 for other evidentiary use.

11 (e) Fingerprints or photographs taken pursuant to subsection (a) may be
12 forwarded to the State Bureau of Investigation, the Federal Bureau of Investigation, or
13 other law-enforcement agencies."

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

15 **"§ 7A-596. Authority to issue nontestimonial identification order where juvenile**
16 **alleged to be delinquent.**

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

28 Sec. 3. Article 14 of Chapter 15A of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 15A-283. Automatic destruction of products and reports of nontestimonial**
31 **identification procedures for person under 18.**

32 If the final disposition of a charge against a defendant who was under 18 years old at
33 the time of the defendant's alleged offense is a judgment of not guilty or a dismissal, any
34 products or reports of nontestimonial identification procedures relating to that charge
35 shall be destroyed; however, products or reports of nontestimonial identification
36 procedures that relate to other charges that have not been disposed of by a judgment of
37 not guilty or by a dismissal shall not be destroyed. Destruction of nontestimonial
38 identification products or records pursuant to this section shall be performed by the law
39 enforcement agency having possession of such records. Following destruction, the law
40 enforcement agency shall make written certification to the court of the destruction."

41 Sec. 4. G.S. 7A-601 reads as rewritten:

42 **"§ 7A-601. Destruction of records resulting from nontestimonial identification**
43 **procedures.**

1 The results of any nontestimonial identification procedures shall be retained or
2 disposed of as follows:

- 3 (1) If a petition is not filed against a juvenile who has been the subject of
4 nontestimonial identification procedures, all records of such evidence
5 shall be destroyed.
- 6 (2) If in the district court or superior court pursuant to a transfer a juvenile
7 is found not ~~guilty~~, guilty or the case against that juvenile is dismissed,
8 all records resulting from a nontestimonial order shall be ~~destroyed~~
9 destroyed, except as provided in G.S. 15A-283. Further, in the case of
10 a juvenile who is under 14 years of age and who is adjudicated to have
11 committed a delinquent act, which would be less than a felony had the
12 juvenile been an adult, all records shall be destroyed.
- 13 (3) If a juvenile 14 years of age or older is found to have committed a
14 delinquent act which would be a felony if committed by an adult, all
15 records resulting from a nontestimonial order may be retained in the
16 court file. Special precautions shall be taken to ensure that these
17 records will be maintained in such a manner and under such safeguards
18 as to limit their use to inspection for comparison purposes by law-
19 enforcement officers only in the investigation of a crime.
- 20 (4) If the juvenile is transferred to superior court, all records resulting
21 from nontestimonial identification procedures shall be processed as in
22 the case of an adult.
- 23 (5) Any evidence seized pursuant to a nontestimonial order shall be
24 retained by law-enforcement officers until further order is entered by
25 the court.
- 26 (6) Destruction of nontestimonial identification records pursuant to this
27 section shall be performed by the law-enforcement agency having
28 possession of such records. Following destruction, the law-
29 enforcement agency shall make written certification to the court of
30 such destruction."

31 Sec. 5. This act is effective upon ratification.