

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH45000-LT-112A (04/02)

Short Title: Amend Juvenile Law.

(Public)

Sponsors: Representative Luebke.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH CRIMINAL PENALTIES FOR ALLOWING JUVENILES TO ESCAPE; TO ALLOW JUVENILE DETENTION FACILITIES TO PHOTOGRAPH JUVENILES AND TO RELEASE THE PHOTOGRAPHS WHEN THE JUVENILE ESCAPES; TO ALLOW THE HOLDING OF A JUVENILE IN A LOCAL CONFINEMENT FACILITY WHILE AWAITING TRIAL AS AN ADULT; AND TO MAKE CONFORMING CHANGES TO THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-239 reads as rewritten:

"§ 14-239. Allowing prisoners to escape; punishment.

If any sheriff, deputy sheriff, ~~or~~ jailer, or other custodial personnel shall willfully or wantonly allow the escape of any person committed to ~~his~~ that person's custody who is (i) a person charged with a crime, ~~or~~ (ii) a person sentenced by the court upon conviction of any offense, or (iii) committed to the Department of Juvenile Justice and Delinquency Prevention, ~~he~~ that person shall be guilty of a Class 1 misdemeanor. No prosecution shall be brought against any such officer pursuant to this section by reason of a prisoner being allowed to participate pursuant to court order in any work release, work study, community service, or other lawful program, or by reason of any such prisoner failing to return from participation in any such program."

SECTION 2. G.S. 7B-2102 reads as rewritten:

"§ 7B-2102. Fingerprinting and photographing juveniles.

(a) A law enforcement officer or agency shall fingerprint and photograph a juvenile who was 10 years of age or older at the time the juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701, when a complaint has been prepared for filing as a petition and the juvenile is in physical custody of law enforcement or the Department.

1 (a1) A youth development center or other juvenile facility or local confinement
2 facility may photograph a juvenile who has been committed to the facility.

3 (b) If a law enforcement officer or agency does not take the fingerprints or a
4 photograph of the juvenile pursuant to subsection (a) of this section or the fingerprints
5 or photograph have been destroyed pursuant to subsection (e) of this section, a law
6 enforcement officer or agency shall fingerprint and photograph a juvenile who has been
7 adjudicated delinquent if the juvenile was 10 years of age or older at the time the
8 juvenile committed an offense that would be a felony if committed by an adult.

9 (c) A law enforcement ~~officer~~ officer, facility, or agency who fingerprints or
10 photographs a juvenile pursuant to this section shall do so in a proper format for transfer
11 to the State Bureau of Investigation and the Federal Bureau of Investigation. After the
12 juvenile, who was 10 years of age or older at the time of the offense, is adjudicated
13 delinquent of an offense that would be a felony if committed by an adult, fingerprints
14 obtained pursuant to this section shall be transferred to the State Bureau of Investigation
15 and placed in the Automated Fingerprint Identification System (AFIS) to be used for all
16 investigative and comparison purposes. Photographs obtained pursuant to this section
17 shall be placed in a format approved by the State Bureau of Investigation and may be
18 used for all investigative or comparison purposes.

19 (d) Fingerprints and photographs taken pursuant to this section are not public
20 records under Chapter 132 of the General Statutes, shall not be included in the clerk's
21 record pursuant to G.S. 7B-3000, shall be withheld from public inspection or
22 examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200.
23 Fingerprints and photographs taken pursuant to this section shall be maintained
24 separately from any juvenile record, other than the electronic file maintained by the
25 State Bureau of Investigation.

26 (d1) Notwithstanding subsection (d) of this section, photographs of a juvenile may
27 be released to the public if the juvenile escapes from a youth development center or
28 other juvenile facility, a holdover facility, or a local confinement facility or escapes
29 from the custody of juvenile personnel or a local law enforcement officer.

30 (e) If a juvenile is fingerprinted and photographed pursuant to subsection (a) of
31 this section, the custodian of records shall destroy all fingerprints and photographs at the
32 earlier of the following:

- 33 (1) The juvenile court counselor or prosecutor does not file a petition
34 against the juvenile within one year of fingerprinting and
35 photographing the juvenile pursuant to subsection (a) of this section;
36 (2) The court does not find probable cause pursuant to G.S. 7B-2202; or
37 (3) The juvenile is not adjudicated delinquent of any offense that would be
38 a felony or a misdemeanor if committed by an adult.

39 The chief court counselor shall notify the local custodian of records, and the local
40 custodian of records shall notify any other record-holding agencies, when a decision is
41 made not to file a petition, the court does not find probable cause, or the court does not
42 adjudicate the juvenile delinquent."

43 **SECTION 3.** G.S. 7B-2204 reads as rewritten:

44 "**§ 7B-2204. Right to pretrial release; detention.**

1 Once the order of transfer has been entered, the juvenile has the right to pretrial
2 release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify
3 the person or persons to whom the juvenile may be released. Pending release, the court
4 shall order that the juvenile be detained in a detention facility or an approved local
5 confinement facility while awaiting trial. The court may order the juvenile to be held in
6 a holdover facility at any time the presence of the juvenile is required in court for
7 pretrial hearings or trial, if the court finds that it would be inconvenient to return the
8 juvenile to the detention ~~facility.~~facility or approved local confinement facility.

9 Should the juvenile be found guilty, or enter a plea of guilty or no contest to a
10 criminal offense in superior court and receive an active sentence, then immediate
11 transfer to the Department of Correction shall be ordered. Until such time as the
12 juvenile is transferred to the Department of Correction, the juvenile may be detained in
13 a holdover ~~facility.~~facility or an approved local confinement facility. The juvenile may
14 not be detained in a detention facility pending transfer to the Department of Correction.

15 The juvenile may be kept by the Department of Correction as a safekeeper until the
16 juvenile is placed in an appropriate correctional program."

17 **SECTION 4.** G.S. 7B-2603(b) reads as rewritten:

18 "(b) Once an order of transfer has been entered by the district court, the juvenile
19 has the right to be considered for pretrial release as provided in G.S. 15A-533 and G.S.
20 15A-534. The release order shall specify the person or persons to whom the juvenile
21 may be released. Pending release, the court shall order that the juvenile be detained in a
22 detention facility or an approved local confinement facility while awaiting trial. The
23 court may order the juvenile to be held in a holdover facility as defined by G.S.
24 7B-1501 at any time the presence of the juvenile is required in court for pretrial
25 hearings or trial, if the court finds that it would be inconvenient to return the juvenile to
26 the detention ~~facility.~~facility or an approved local confinement facility."

27 **SECTION 5.** G.S. 7B-1501 is amended by adding a new subdivision to read:

28 "(18b) Local confinement facility or approved local confinement facility. – A
29 place in a local jail or other county facility which has been approved
30 by the Department of Health and Human Services as meeting the State
31 standards for detention as required by G.S. 153A-221 providing close
32 supervision where the juvenile cannot converse with, see, or be seen
33 by the adult population."

34 **SECTION 6.** Section 1 of this act becomes effective December 1, 2003, and
35 applies to offenses committed on or after that date. The remainder of this act becomes
36 effective October 1, 2003.