

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**HOUSE BILL 1037
RATIFIED BILL**

AN ACT TO ESTABLISH CRIMINAL PENALTIES FOR ALLOWING JUVENILES TO ESCAPE AND TO ALLOW JUVENILE DETENTION FACILITIES TO PHOTOGRAPH JUVENILES AND TO RELEASE THE PHOTOGRAPHS WHEN THE JUVENILE ESCAPES.

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. A county juvenile detention facility shall photograph a juvenile who has been committed to that facility if the juvenile was at least 10 years old at the time that juvenile allegedly committed a nondivertible offense as set forth in G.S. 7B-1701.

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

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

(d) Fingerprints and photographs taken pursuant to this section are not public records under Chapter 132 of the General Statutes, shall not be included in the clerk's record pursuant to G.S. 7B-3000, shall be withheld from public inspection or

examination, and shall not be eligible for expunction pursuant to G.S. 7B-3200. Fingerprints and photographs taken pursuant to this section shall be maintained separately from any juvenile record, other than the electronic file maintained by the State Bureau of Investigation.

(d1) Notwithstanding subsection (d) of this section, the court may order the release of a juvenile's photograph to the public if the juvenile escapes from a youth development center, other juvenile facility, a holdover facility, or from the custody of juvenile personnel or a local law enforcement officer.

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

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

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

SECTION 3. Section 1 of this act becomes effective December 1, 2003, and applies to offenses committed on or after that date. The remainder of this act becomes effective October 1, 2003.

In the General Assembly read three times and ratified this the 24th day of June, 2003.

Marc Basnight
President Pro Tempore of the Senate

Richard T. Morgan
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2003