

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-545
SENATE BILL 984

AN ACT AMENDING THE JUVENILE CODE REGARDING ACCESS TO JUVENILE COURT RECORDS.

The General Assembly of North Carolina enacts:

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

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

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

...."

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

"§ 7B-3000. Juvenile court records.

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

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

- (1) ~~The juvenile;~~juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The prosecutor; and
- (4) Court counselors.

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

(c) The court may direct the clerk to "seal" any portion of a juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT", or with similar notice, and shall permit examination or copying of sealed portions of a juvenile's record only pursuant to a court order specifically authorizing inspection or copying.

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

(e) Notwithstanding any other provision of law, if the defendant in a criminal proceeding involving a Class A1 misdemeanor or a felony was less than 21 years of age at the time of the offense, information obtained pursuant to subsection (b) of this section regarding the juvenile's record of an adjudication of delinquency for an offense that would be a Class A1 misdemeanor or a felony if committed by an adult adult, where the adjudication occurred 18 months or less before the defendant reached 16 years of age or the adjudication occurred after the defendant reached 16 years of age, may be used by law enforcement, the magistrate, the courts, and the prosecutor for pretrial release and release, plea negotiating decisions.



and plea acceptance decisions. Information obtained regarding any juvenile record shall remain confidential and shall not be placed in any public record.

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

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

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

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

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

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

- (1) ~~The juvenile;~~ juvenile or the juvenile's attorney;
- (2) The juvenile's parent, guardian, custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) ~~The district attorney or~~ prosecutor;
- (4) Juvenile court counselors; and
- (5) Law enforcement officers sworn in this State.

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

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

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

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

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

"§ 7B-2411. Adjudication.

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

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

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:21 a.m. this 28th day of August, 2009