

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 535

Short Title: All Arrestees Fingerprinted/Photographed. (Public)

Sponsors: Representatives Faircloth, McNeill, Burr, and Boles (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B, if favorable, Appropriations.

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT ALL PERSONS ARRESTED OR IMPRISONED FOR A
FELONY OR MISDEMEANOR ARE FINGERPRINTED AND PHOTOGRAPHED.

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~~ shall be photographed and ~~his~~ the person's fingerprints ~~may~~ shall be taken for law-enforcement records ~~only when he~~ the person has been:

- (1) Arrested and taken into custody or committed to a detention facility, or
- (2) Committed to imprisonment upon conviction of a crime, or
- (3) Convicted of a ~~felony~~ felony, if the person has not previously been photographed and fingerprinted pursuant to this section.

(a1) ~~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.~~ The entity responsible for taking photographs and fingerprints under subsection (a) of this section shall be (i) the arresting law enforcement agency if the person was arrested or (ii) the custodian of the local confinement facility or the superintendent of the facility of the State prison system where the person is imprisoned, if the person was not arrested prior to conviction. The entity responsible for taking photographs and fingerprints under subsection (a) shall forward those fingerprints to the State Bureau of Investigation.

(a2) ~~If the person cannot be identified by a valid form of identification, it shall be the duty of the arresting law enforcement agency to cause a person charged with the commission of:~~

- (1) ~~Any offense involving impaired driving, as defined in G.S. 20-4.01(24a), or~~
- (2) ~~Driving while license revoked if the revocation is for an Impaired Driving License Revocation as defined in G.S. 20-28.2~~

~~to be fingerprinted and photographed.~~

(b) ~~This section does not authorize the taking of photographs or fingerprints when the offense charged is a Class 2 or 3 misdemeanor under Chapter 20 of the General Statutes, "Motor Vehicles." Notwithstanding the prohibition in this subsection, Even if the person is not arrested, a photograph may be taken of a person ~~who operates a motor vehicle on a street or highway~~ if:~~



- 1 (1) The person is cited by a law enforcement officer for a ~~motor vehicle moving~~
2 violation, and
3 (2) The person does not produce a valid drivers license or other valid form of
4 identification upon the request of a law enforcement officer, and
5 (3) The law enforcement officer has a reasonable suspicion concerning the true
6 identity of the person.

7 ~~As used in this subsection, the phrase "motor vehicle moving violation" does not include the~~
8 ~~offenses listed in the third paragraph of G.S. 20-16(e) for which no points are assessed, nor~~
9 ~~does it include equipment violations specified in Part 9 of Article 3 of Chapter 20 of the~~
10 ~~General Statutes.~~

11 (b1) Any photograph authorized by subsection (b) of this section and taken by a law
12 enforcement officer or agency:

- 13 (1) Shall only be taken ~~of the operator of the motor vehicle, and only~~ from the
14 neck up.
15 (2) Shall be taken at either the location where the citation is issued, or at the jail
16 if an arrest is made.
17 (3) Shall be retained by the law enforcement officer or agency until the final
18 disposition of the case.
19 (4) Shall not be used for any purpose other than to confirm the identity of the
20 alleged offender.
21 (5) ~~Shall be destroyed by the law enforcement officer or agency upon a final~~
22 ~~disposition of the charge.~~

23 (c) This section does not authorize the taking of photographs or fingerprints of a
24 juvenile alleged to be delinquent except under Article 21 of Chapter 7B of the General Statutes.

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

28 (e) Fingerprints ~~or and~~ photographs taken pursuant to ~~subsection (a), (a1), or (a2)~~
29 subsection (a) or (a1) of this section may be forwarded to ~~the State Bureau of Investigation, the~~
30 ~~Federal Bureau of Investigation, the~~ Federal Bureau of Investigation or other law-enforcement
31 agencies."

32 **SECTION 2.** This act becomes effective December 1, 2013, and applies to
33 offenses committed on or after that date.