

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 113

Senate Judiciary I/Constitution Committee Substitute Adopted 6/20/95

Short Title: Criminal Justice Records Access.

(Public)

Sponsors:

Referred to:

February 7, 1995

A BILL TO BE ENTITLED

AN ACT TO REGULATE PUBLIC ACCESS TO AND USE OF CRIMINAL JUSTICE RECORDS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 132 of the General Statutes is amended by adding a new section to read:

§ 132-1.5. Limitation on use of criminal justice records; denial by custodian.

(a) No person shall use criminal justice records and the names, addresses, telephone numbers, and other information in the records for the purpose of soliciting business. The custodian of records as defined by G.S. 132-2 shall deny access to criminal justice records unless the person requesting access signs a statement under oath or affirmation that the records will not be used for the solicitation of business. This section does not apply to the judge, district attorney, defendant, defendant's attorney-of-record or representative, and other court officials or law enforcement officers or personnel who need access to criminal justice records to conduct official court business or law enforcement activities.

(b) As used in this section, 'criminal justice records' means the following information and the following records that are public records as defined by G.S. 132-1:

- 1 (1) Court records, including records of arrest, indictment, charging by
2 information, disposition, pretrial or posttrial release from custody,
3 judicial determination of mental or physical condition, decisions to
4 grant, order, or terminate probation, parole, or participation in
5 correctional or rehabilitative programs, and any decision to formally
6 discipline, reclassify, or relocate any person under criminal sentence.
7 (2) All books, papers, cards, photographs, tapes, recordings, or other
8 documentary materials, regardless of form or characteristics, which are
9 made, maintained, or kept by a public law enforcement agency as
10 defined by G.S. 132-1.4."

11 Sec. 2. G.S. 132-1.4(c) reads as rewritten:

12 "(c) Subject to G.S. 132-1.5, notwithstanding ~~Notwithstanding~~ the provisions of this
13 section, and unless otherwise prohibited by law, the following information shall be public
14 records within the meaning of G.S. 132-1.

- 15 (1) The time, date, location, and nature of a violation or apparent violation
16 of the law reported to a public law enforcement agency.
17 (2) The name, sex, age, address, employment, and alleged violation of law
18 of a person arrested, charged, or indicted.
19 (3) The circumstances surrounding an arrest, including the time and place
20 of the arrest, whether the arrest involved resistance, possession or use of
21 weapons, or pursuit, and a description of any items seized in connection
22 with the arrest.
23 (4) The contents of '911' and other emergency telephone calls received by
24 or on behalf of public law enforcement agencies, except for such
25 contents that reveal the name, address, telephone number, or other
26 information that may identify the caller, victim, or witness.
27 (5) The contents of communications between or among employees of public
28 law enforcement agencies that are broadcast over the public airways.
29 (6) The name, sex, age, and address of a complaining witness."

30 Sec. 3. G.S. 132-6 reads as rewritten:

31 **"§ 132-6. Inspection and examination of records.**

32 Except as provided in G.S. 132-1.5, every ~~Every~~ person having custody of public
33 records shall permit them to be inspected and examined at reasonable times and under his
34 supervision by any person, and he shall furnish certified copies thereof on payment of
35 fees as prescribed by law. Notwithstanding the foregoing, public records relating to the
36 proposed expansion or location of specific business or industrial projects in the State may
37 be withheld so long as their inspection, examination or copying would frustrate the
38 purpose for which such public records were created; provided, however, that nothing
39 herein shall be construed to permit the withholding of public records relating to general
40 economic development policies or activities."

41 Sec. 4. G.S. 132-9 reads as rewritten:

42 **"§ 132-9. Access to records.**

1 Any person who is denied access to public records for purposes of inspection,
2 examination or copying may apply to the appropriate division of the General Court of
3 Justice for an order compelling disclosure, and the court shall have jurisdiction to issue
4 such orders. In an action to compel disclosure of public records which have been
5 withheld pursuant to the provisions of G.S. 132-6 concerning public records relating to
6 the proposed expansion or location of particular businesses and industrial projects, the
7 burden shall be on the custodian withholding the records to show that disclosure would
8 frustrate the purpose of attracting that particular business or industrial project. In an
9 action to compel disclosure of criminal justice records that have been withheld pursuant
10 to the provisions of G.S. 132-1.5, the burden shall be on the person requesting the records
11 to show that the person complied with the requirements of G.S. 132-1.5."

12 Sec. 5. The Administrative Office of the Courts and the Department of Justice
13 shall adopt rules to implement the provisions of this act.

14 Sec. 6. This act becomes effective December 1, 1995.