

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1037

Short Title: Amend Juvenile Law.

(Public)

Sponsors: Representatives Luebke; Crawford, Miller, and Michaux.

Referred to: Judiciary I.

April 10, 2003

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH CRIMINAL PENALTIES FOR ALLOWING JUVENILES
3 TO ESCAPE; TO ALLOW JUVENILE DETENTION FACILITIES TO
4 PHOTOGRAPH JUVENILES AND TO RELEASE THE PHOTOGRAPHS WHEN
5 THE JUVENILE ESCAPES; TO ALLOW THE HOLDING OF A JUVENILE IN A
6 LOCAL CONFINEMENT FACILITY WHILE AWAITING TRIAL AS AN
7 ADULT; AND TO MAKE CONFORMING CHANGES TO THE GENERAL
8 STATUTES.

9 The General Assembly of North Carolina enacts:

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

11 "**§ 14-239. Allowing prisoners to escape; punishment.**

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

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

22 "**§ 7B-2102. Fingerprinting and photographing juveniles.**

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

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

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

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

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

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

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

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

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

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

42 "**§ 7B-2204. Right to pretrial release; detention.**

43 Once the order of transfer has been entered, the juvenile has the right to pretrial
44 release as provided in G.S. 15A-533 and G.S. 15A-534. The release order shall specify

1 the person or persons to whom the juvenile may be released. Pending release, the court
2 shall order that the juvenile be detained in a detention facility or an approved local
3 confinement facility while awaiting trial. The court may order the juvenile to be held in
4 a holdover facility at any time the presence of the juvenile is required in court for
5 pretrial hearings or trial, if the court finds that it would be inconvenient to return the
6 juvenile to the detention ~~facility~~-facility or approved local confinement facility.

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

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

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

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

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

26 "(18b) Local confinement facility or approved local confinement facility. – A
27 place in a local jail or other county facility which has been approved
28 by the Department of Health and Human Services as meeting the State
29 standards for detention as required by G.S. 153A-221 providing close
30 supervision where the juvenile cannot converse with, see, or be seen
31 by the adult population."

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