

GENERAL ASSEMBLY OF NORTH CAROLINA
EXTRA SESSION 1994

CHAPTER 7
HOUSE BILL 27

AN ACT TO PROVIDE THAT A COURT MAY ORDER THAT JUVENILE RECORDS OF JUVENILES ADJUDICATED OR CONVICTED OF CLASS A - E FELONIES MAY BE USED AT A SUBSEQUENT CRIMINAL TRIAL EITHER IN THE GUILT PHASE OR TO PROVE AN AGGRAVATING FACTOR AT SENTENCING.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-675(a) reads as rewritten:

"(a) The clerk of superior court shall maintain a complete record of all juvenile cases filed in ~~his~~ the clerk's office to be known as the juvenile record, which shall be withheld from public inspection ~~and~~ and, except as provided in this subsection, may be examined only by order of the judge. ~~judge, except that the juvenile, his parent, guardian, custodian, or other authorized representative of the juvenile shall have a right to examine the juvenile's record.~~ The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the judge.

The following persons may examine the juvenile's record without an order of the judge:

- (1) The juvenile, the juvenile's parent, guardian, or custodian, or another authorized representative of the juvenile.
- (2) The prosecutor in a subsequent criminal proceeding against the juvenile.

The juvenile's record of an adjudication of delinquency for an offense that would be a Class A, B, 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), G.S. 15A-1340.16(d), or G.S. 15A-2000(e). The record may be so used only by order of the judge in the subsequent criminal proceeding, upon motion of the prosecutor, after an in camera hearing to determine whether the record in question is admissible."

Sec. 2. G.S. 7A-676(b) reads as rewritten:

"(b) Any person who has attained the age of 16 years may file a petition in the court where ~~he~~ the person was adjudicated delinquent for expunction of all records of that adjudication provided:

- (1) The offense for which ~~he~~ the person was adjudicated would have been a crime other than a Class A, B, C, D, or E felony if committed by an adult.
- (2) The person has not subsequently been adjudicated delinquent or convicted as an adult of any felony or misdemeanor other than a traffic violation under the laws of the United States or the laws of this State or any other state.

Records relating to an adjudication for an offense that would be a Class A, B, C, D, or E felony if committed by an adult shall not be expunged."

Sec. 3. G.S. 8C-1, Rule 404(b) reads as rewritten:

"(b) Other crimes, wrongs, or acts. – Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake, entrapment or accident. Admissible evidence may include evidence of an offense committed by a juvenile if it would have been a Class A, B, C, D, or E felony if committed by an adult."

Sec. 4. G.S. 15A-1340.4(a)(1) reads as rewritten:

"(1) Aggravating factors:

- a. The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.
- b. The offense was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- c. The defendant was hired or paid to commit the offense.
- d. The offense was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- e. The offense was committed against a present or former: law enforcement officer, employee of the Department of Correction, jailer, fireman, emergency medical technician, ambulance attendant, justice or judge, clerk or assistant or deputy clerk of court, magistrate, prosecutor, juror, or witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duties.
- f. The offense was especially heinous, atrocious, or cruel.
- g. The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- h. The defendant held public office at the time of the offense and the offense related to the conduct of the office.
- i. The defendant was armed with or used a deadly weapon at the time of the crime.

- j. The victim was very young, or very old, or mentally or physically infirm.
- k. The defendant committed the offense while on pretrial release on another felony charge.
- l. The defendant involved a person under the age of 16 in the commission of the crime.
- m. The offense involved an attempted or actual taking of property of great monetary value or damage causing great monetary loss, or the offense involved an unusually large quantity of contraband.
- n. The defendant took advantage of a position of trust or confidence to commit the offense.
- o. The defendant has a prior conviction or convictions for criminal offenses punishable by more than 60 days' confinement. Such convictions include those occurring in North Carolina courts and courts of other states, the District of Columbia, and the United States, provided that any crime for which the defendant was convicted in a jurisdiction other than North Carolina would have been a crime if committed in this State. Such prior convictions do not include any crime that is joinable, under G.S. Chapter 15A, with the crime or crimes for which the defendant is currently being sentenced. For the purpose of this subdivision, a prior conviction includes an adjudication of delinquency for an offense that would be a Class A, B, C, D, or E felony if committed by an adult.
- p. The offense involved the sale or delivery of a controlled substance to a minor.
- q. The offense was committed because of the race, color, religion, nationality, or country of origin of another person.
- r. The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.

Evidence necessary to prove an element of the offense may not be used to prove any factor in aggravation, and the same item of evidence may not be used to prove more than one factor in aggravation.

The judge may not consider as an aggravating factor the fact that the defendant exercised his right to a jury trial."

Sec. 5. G.S. 15A-2000(e) reads as rewritten:

"(e) Aggravating Circumstances. – Aggravating circumstances which may be considered shall be limited to the following:

- (1) The capital felony was committed by a person lawfully incarcerated.
- (2) The defendant had been previously convicted of another capital ~~felony~~ felony or had been previously adjudicated delinquent in a juvenile

proceeding for committing an offense that would be a capital felony if committed by an adult.

- (3) The defendant had been previously convicted of a felony involving the use or threat of violence to the ~~person.~~ person or had been previously adjudicated delinquent in a juvenile proceeding for committing an offense that would be a Class A, B, C, D, or E felony involving the use or threat of violence to the person if the offense had been committed by an adult.
- (4) The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- (5) The capital felony was committed while the defendant was engaged, or was an aider or abettor, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any homicide, robbery, rape or a sex offense, arson, burglary, kidnapping, or aircraft piracy or the unlawful throwing, placing, or discharging of a destructive device or bomb.
- (6) The capital felony was committed for pecuniary gain.
- (7) The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- (8) The capital felony was committed against a law-enforcement officer, employee of the Department of Correction, jailer, fireman, judge or justice, former judge or justice, prosecutor or former prosecutor, juror or former juror, or witness or former witness against the defendant, while engaged in the performance of his official duties or because of the exercise of his official duty.
- (9) The capital felony was especially heinous, atrocious, or cruel.
- (10) The defendant knowingly created a great risk of death to more than one person by means of a weapon or device which would normally be hazardous to the lives of more than one person.
- (11) The murder for which the defendant stands convicted was part of a course of conduct in which the defendant engaged and which included the commission by the defendant of other crimes of violence against another person or persons."

Sec. 6. G.S. 15A-1340.16(d) is amended by adding a new subdivision to read:

"(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B, C, D, or E felony if committed by an adult."

Sec. 7. Section 6 of this act becomes effective on the date that G.S. 15A-1340.16 becomes effective and applies to offenses committed on or after that date. The remainder of this act becomes effective May 1, 1994. Sections 1, 2, 4, and 5 of this act apply to offenses committed on or after that date. Section 3 of this act applies to trials begun on or after that date.

In the General Assembly read three times and ratified this the 8th day of March, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives