

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

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HOUSE BILL 229

Short Title: Detain Child Not In School-2.

(Public)

Sponsors: Representatives Lemmond; Bowman and Gardner.

Referred to: Judiciary II.

February 15, 1994

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE LAW ENFORCEMENT OFFICERS TO STOP AND CHECK SCHOOL-AGE MINORS NOT IN SCHOOL DURING REGULAR SCHOOL HOURS AND TO ESCORT A MINOR TO THE MINOR'S SCHOOL.

The General Assembly of North Carolina enacts:

Section 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 23A.

"POLICE STOP AND CHECK OF MINORS.

"§ 15A-506. Definitions.

Unless the context clearly indicates otherwise, for the purposes of this Article:

(1) 'Minor of school age' or 'minor' means a minor who is of an age subject to the compulsory education laws of this State.

(2) 'Uniformed law enforcement officer' or 'officer' means a sworn law enforcement officer who is wearing the official badge or shield, and uniform of the law enforcement agency or department which employs the law enforcement officer.

"§ 15A-507. Grounds for stopping minor of school age.

A uniformed law enforcement officer shall stop at any time on school days during regular school hours any person whom the officer reasonably believes to be a minor of school age (i) who is absent from school without permission from the minor's parent, guardian, or custodian and (ii) who is not in the company of a responsible adult with the permission of the minor's parent, guardian, or custodian.

"§ 15A-508. Procedure upon stopping minor of school age.

1 (a) Upon stopping a minor of school age in accordance with G.S. 15A-507, a
2 uniformed law enforcement officer may at that time and place detain and question the
3 minor in order to determine whether the minor is absent from school without written
4 permission from the minor's parent, guardian, or custodian.

5 (b) If the minor is absent from school without permission, then the law
6 enforcement officer may take the minor into temporary custody pursuant to Article 46
7 of Chapter 7A of the General Statutes. After providing to the minor's parent, guardian,
8 or custodian the notice required by Article 46 of Chapter 7A of the General Statutes, the
9 officer shall either release the minor to the minor's parent, guardian, or custodian if
10 continued custody is unnecessary, or with the permission of the minor's parent,
11 guardian, or custodian, the officer shall deliver the minor to the minor's school.

12 (c) A law enforcement officer who complies in good faith with the provisions of
13 this section shall not be civilly liable for detaining a minor or for taking a minor into
14 temporary custody.

15 (d) The provisions of subsection (b) of this section do not apply as to an
16 emancipated minor, a minor who is married, or a minor who is a member of the armed
17 forces of the United States."

18 Sec. 2. G.S. 7A-571 reads as rewritten:

19 **"§ 7A-571. Taking a juvenile into temporary custody.**

20 Temporary custody means the taking of physical custody and providing personal
21 care and supervision until a court order for secure or nonsecure custody can be obtained.
22 A juvenile may be taken into temporary custody under the following circumstances:

- 23 (1) A juvenile may be taken into temporary custody by a law-enforcement
24 officer without a court order if grounds exist for the arrest of an adult
25 in identical circumstances under G.S. 15A-401(b).
- 26 (2) A juvenile may be taken into temporary custody without a court order
27 by a law-enforcement officer or a court counselor if there are
28 reasonable grounds to believe that he is an undisciplined juvenile.
- 29 (3) A juvenile may be taken into temporary custody without a court order
30 by a law-enforcement officer or a Department of Social Services
31 worker if there are reasonable grounds to believe that the juvenile is
32 abused, neglected, or dependent and that he would be injured or could
33 not be taken into custody if it were first necessary to obtain a court
34 order.
- 35 (4) A juvenile may be taken into custody without a court order by a law-
36 enforcement officer, by a court counselor, by a member of the Black
37 Mountain Center, Alcohol Rehabilitation Center and Juvenile
38 Evaluation Center Joint Security Force established pursuant to G.S.
39 122C-421, or by personnel of the Division of Youth Services as
40 designated by the Department of Human Resources if there are
41 reasonable grounds to believe the juvenile is an absconder from any
42 State training school or approved detention facility.
- 43 (5) A juvenile may be taken into temporary custody by a law enforcement
44 officer without a court order when the law enforcement officer, acting

1 under the authority granted by Article 23A of Chapter 15A of the
2 General Statutes, reasonably believes that the juvenile is a minor of
3 school age who is absent from school without the permission of the
4 minor's parent, guardian, or custodian."

5 Sec. 3. This act becomes effective January 1, 1995.