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HOUSE BILL NO. 1046

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 3, 2006)

(Patron Prior to Substitute—Delegate Reid)

A *BILL to amend and reenact § 16.1-309.1 of the Code of Virginia, relating to reporting alleged juvenile illegal alien delinquents to the Immigration and Customs Enforcement Agency.*

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-309.1 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-309.1. Exception as to confidentiality.

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2 or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. At any time prior to disposition, if a juvenile, charged with a delinquent act which would be forcible rape, robbery, burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 or a Class 1, 2 or 3 felony if committed by an adult, or held in custody by a law-enforcement officer or in a secure facility becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would be forcible rape, robbery, burglary, or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, or a Class 1, 2, or 3 felony if committed by an adult or held in custody by a law-enforcement officer or in a secure facility, becomes a fugitive from justice at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act which would be forcible rape, robbery, burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 or a Class 1, 2 or 3 felony if committed by an adult becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the information as provided in this subdivision.

C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public interest requires, make the juvenile's name and address available to the public.

D. Upon the request of a victim of a delinquent act which would be a felony if committed by an adult, the court may order that such victim be informed of the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-11.01.

E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been

60 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

61 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or
62 other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city
63 wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained
64 in the court order to other law-enforcement officers in the conduct of official duties.

65 *G. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), an intake officer shall*
66 *report to the United States Immigration and Customs Enforcement Agency a juvenile who has been*
67 *detained in a secure facility based on an allegation that the juvenile committed an act that would be a*
68 *felony if committed by an adult and who the intake officer has reason to believe is in the United States*
69 *illegally based upon an illegal immigrant query to the National Crime Information Center returning a*
70 *positive identification. The report shall include the nature of the offense alleged to have been*
71 *committed.*