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## HOUSE BILL NO. 918

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 10, 2010)

(Patron Prior to Substitute—Delegate Bell, R.B.)

A *BILL to amend and reenact § 16.1-309.1 of the Code of Virginia, relating to exception to confidentiality of juvenile records; escapee.*

**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.a. 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 constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge 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, with notice to the juvenile's attorney of record, 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 constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge, 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, with notice to the juvenile's attorney of record, 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.

b. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, 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 constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the attorney for the Commonwealth's may, with notice to the juvenile's attorney of record, 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

60 operated by or under contract with the Department becomes a fugitive by such escape, the attorney for  
61 the Commonwealth of the locality in which the facility is located may release the information as  
62 provided in this subdivision.

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

69 D. Upon the request of a victim of a delinquent act which would be a felony if committed by an  
70 adult, the court may order that such victim be informed of the charge or charges brought, the findings of  
71 the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in  
72 § 19.2-11.01.

73 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant  
74 to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been  
75 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

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

80 G. Notwithstanding any other provision of law, where consideration of public safety requires, the  
81 Department or locally operated court service unit may release any information relating to gang  
82 involvement or the gang-related activity of others, obtained from an investigation or supervision of a  
83 juvenile identified as affiliated with a criminal street gang, as defined in § 18.2-46.1. Such information  
84 may be released to any State Police, local police department or sheriff's office, that is a part of or  
85 administered by the Commonwealth or any political subdivision thereof, and that is responsible for the  
86 prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the  
87 Commonwealth. The exchange of information shall be for the purpose of an investigation into criminal  
88 street gang activity.

89 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), an intake officer shall  
90 report to the Bureau of Immigration and Customs Enforcement of the United States Department of  
91 Homeland Security a juvenile who has been detained in a secure facility based on an allegation that the  
92 juvenile committed a violent juvenile felony and who the intake officer has probable cause to believe is  
93 in the United States illegally.