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HOUSE BILL NO. 1813

Offered January 8, 1997

A *BILL to amend and reenact §§ 16.1-299, as it is currently effective and as it may become effective, and 18.2-251 of the Code of Virginia, relating to fingerprinting of juvenile offenders.*

Patron—Jones, J.C.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-299, as it is currently effective and as it may become effective, and 18.2-251 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-299. Fingerprints and photographs of juveniles.

A. All duly constituted police authorities having the power of arrest ~~may~~*shall* take fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act an arrest for which, if committed by an adult, is required to be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390. ~~Whenever fingerprints are taken, they~~ *The fingerprints* shall be maintained separately from adult records, and a copy shall be filed with the juvenile court on forms provided by the Central Criminal Records Exchange.

B. If a juvenile of any age (i) is adjudicated delinquent ~~or~~, (ii) is found guilty of any offense which would be a felony if committed by an adult or any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult *or (iii) has adjudication or disposition deferred pursuant to § 16.1-278.8 or § 18.2-251 for an offense which would be a felony if committed by an adult or for any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult*, copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court which heard the case.

C. If a petition or warrant is not filed against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed sixty days after fingerprints were taken. If a juvenile is found not guilty or in any other case resulting in a disposition for which fingerprints are not required to be forwarded to the Central Criminal Records Exchange, the court shall order that the fingerprint card, all copies of the fingerprints and all photographs be destroyed within sixty days of the date of disposition of the case.

§ 16.1-299. (Delayed effective date) Fingerprints and photographs of juveniles.

A. All duly constituted police authorities having the power of arrest ~~may~~ *shall* take fingerprints and photographs of any juvenile who is taken into custody and charged with a delinquent act an arrest for which, if committed by an adult, is required to be reported to the Central Criminal Records Exchange pursuant to subsection A of § 19.2-390. ~~Whenever fingerprints are taken, they~~ *The fingerprints* shall be maintained separately from adult records and a copy shall be filed with the family court on forms provided by the Central Criminal Records Exchange.

B. If a juvenile of any age (i) is adjudicated delinquent ~~or~~, (ii) is found guilty of any offense which would be a felony if committed by an adult or any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult *or (iii) has adjudication or disposition deferred pursuant to § 16.1-278.8 or § 18.2-251 for an offense which would be a felony if committed by an adult or for any other offense for which a report to the Central Criminal Records Exchange is required by subsection C of § 19.2-390 if the offense were committed by an adult*, copies of his fingerprints and a report of the disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court which heard the case.

C. If a petition or warrant is not filed against a juvenile whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed sixty days after fingerprints were taken. If a juvenile is found not guilty or in any other case resulting in a disposition for which fingerprints are not required to be forwarded to the Central Criminal Records Exchange, the court shall order that the fingerprint card, all copies of the fingerprints and all photographs be destroyed within sixty days of the date of disposition of the case.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; screening, evaluation and education programs; drug tests; costs and fees; violations; discharge.

Whenever any person, *including a juvenile*, who has not previously been convicted of any offense

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HB1813

60 under this article or under any statute of the United States or of any state relating to narcotic drugs,
61 marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding
62 against him for violation of such an offense dismissed as provided in this section, pleads guilty to or
63 enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of
64 marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a
65 finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer
66 further proceedings and place him on probation upon terms and conditions.

67 As a term or condition, the court may require the accused to enter a screening, evaluation and
68 education program, if available, such as, in the opinion of the court, may be best suited to the needs of
69 the accused. This program may be located in the judicial district in which the charge is brought or in
70 any other judicial district as the court may provide. The services shall be provided by a program
71 certified or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse
72 Services. The court may require the person entering such program under the provisions of this section to
73 pay the costs of the program, including the costs of the screening and evaluation.

74 As a condition of probation, the court shall require the accused to remain drug free during the period
75 of probation and submit to such tests during that period as may be necessary and appropriate to
76 determine if the accused is drug free. Such testing may be conducted by personnel of any screening,
77 evaluation and education program to which the person is referred. The cost of such testing may be
78 charged to the person in addition to the fee for the education program.

79 The court shall, unless done at arrest, order the accused to report to the original arresting
80 law-enforcement agency to submit to fingerprinting.

81 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
82 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
83 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
84 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
85 proceedings.

86 Notwithstanding any other provision of this section, whenever a court places an individual on
87 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
88 for purposes of §§ 18.2-259.1 and 46.2-390.1, and the driver's license forfeiture provisions of those
89 sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for
90 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.