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SENATE BILL NO. 731

Offered January 14, 2015

Prefiled December 12, 2014

A BILL to amend and reenact § 16.1-301 of the Code of Virginia, relating to confidentiality of juvenile law-enforcement records; restorative justice programs.

Patron—Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-301 of the Code of Virginia is amended and reenacted as follows:****§ 16.1-301. Confidentiality of juvenile law-enforcement records; disclosures to school principal and others.**

A. The court shall require all law-enforcement agencies to take special precautions to ensure that law-enforcement records concerning a juvenile are protected against disclosure to any unauthorized person. The police departments of the cities of the Commonwealth, and the police departments or sheriffs of the counties, as the case may be, shall keep separate records as to violations of law other than violations of motor vehicle laws committed by juveniles. Such records with respect to such juvenile shall not be open to public inspection nor their contents disclosed to the public unless a juvenile 14 years of age or older is charged with a violent juvenile felony as specified in subsections B and C of § 16.1-269.1.

B. Notwithstanding any other provision of law, the chief of police or sheriff of a jurisdiction or his designee may disclose, for the protection of the juvenile, his fellow students and school personnel, to the school principal that a juvenile is a suspect in or has been charged with (i) a violent juvenile felony, as specified in subsections B and C of § 16.1-269.1; (ii) a violation of any of the provisions of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) a violation of law involving any weapon as described in subsection A of § 18.2-308. If a chief of police, sheriff or a designee has disclosed to a school principal pursuant to this section that a juvenile is a suspect in or has been charged with a crime listed above, upon a court disposition of a proceeding regarding such crime in which a juvenile is adjudicated delinquent, convicted, found not guilty or the charges are reduced, the chief of police, sheriff or a designee shall, within 15 days of the expiration of the appeal period, if there is no notice of appeal, provide notice of the disposition ordered by the court to the school principal to whom disclosure was made. If the court defers disposition or if charges are withdrawn, dismissed or nolle prosequi, the chief of police, sheriff or a designee shall, within 15 days of such action provide notice of such action to the school principal to whom disclosure was made. If charges are withdrawn in intake or handled informally without a court disposition or if charges are not filed within 90 days of the initial disclosure, the chief of police, sheriff or a designee shall so notify the school principal to whom disclosure was made. In addition to any other disclosure that is permitted by this subsection, the principal in his discretion may provide such information to a threat assessment team established by the local school division. No member of a threat assessment team shall (a) disclose any juvenile record information obtained pursuant to this section or (b) use such information for any purpose other than evaluating threats to students and school personnel. For the purposes of this subsection, "principal" also refers to the chief administrator of any private primary or secondary school.

C. Inspection of law-enforcement records concerning juveniles shall be permitted only by the following:

1. A court having the juvenile currently before it in any proceeding;

2. The officers of public and nongovernmental institutions or agencies to which the juvenile is currently committed, and those responsible for his supervision after release;

3. Any other person, agency, or institution, by order of the court, having a legitimate interest in the case or in the work of the law-enforcement agency;

4. Law-enforcement officers of other jurisdictions, by order of the court, when necessary for the discharge of their current official duties;

5. The probation and other professional staff of a court in which the juvenile is subsequently convicted of a criminal offense for the purpose of a presentence report or other dispositional proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him;

6. The juvenile, parent, guardian or other custodian and counsel for the juvenile by order of the court; and

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59 7. As provided in §§ 19.2-389.1 and 19.2-390; and

60 8. *An entity that has a contract with a local governing body or a court services unit to provide a*
61 *restorative justice program, which is a victim-centered response to crime and wrongdoing that focuses*
62 *on victim needs as related to the harm caused by the incident, involving juvenile offenders when the*
63 *contract specifies that the entity may have access to the records of juveniles who are participating in the*
64 *program or who have been identified by a law-enforcement agency for possible participation in the*
65 *program and the records are those of such juveniles.*

66 D. The police departments of the cities and towns and the police departments or sheriffs of the
67 counties may release, upon request to one another and to state and federal law-enforcement agencies,
68 and to law-enforcement agencies in other states, current information on juvenile arrests. The information
69 exchanged shall be used by the receiving agency for current investigation purposes only and shall not
70 result in the creation of new files or records on individual juveniles on the part of the receiving agency.

71 E. Upon request, the police departments of the cities and towns and the police departments or
72 sheriffs of the counties may release current information on juvenile arrests or juvenile victims to the
73 Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
74 award to the victim of a crime, and such information shall not be disseminated or used by the
75 Commission for any other purpose than provided in § 19.2-368.3.

76 F. Nothing in this section shall prohibit the exchange of other criminal investigative or intelligence
77 information among law-enforcement agencies.