

LD0114817

HOUSE BILL NO. 2316

Offered January 23, 1995

A BILL to amend and reenact §§ 16.1-272 and 16.1-299 of the Code of Virginia, as they are effective and as they may become effective, relating to power of circuit court over juvenile offender; fingerprints and photographs of juveniles.

Patrons—Albo, Callahan, Cantor, Cox, Dudley, Forbes, Hamilton, Hargrove, Ingram, Katzen, Kidd, Kilgore, McClure, McDonnell, Miller, O'Brien, Rollison, Ruff, Sherwood, Tata, Wagner, Wardrup, Way and Wilkins; Senators: Calhoun, Martin, Robb, Stolle and Woods

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-272 and 16.1-299 of the Code of Virginia, as those sections are effective and as they may become effective, are amended and reenacted as follows:

§ 16.1-272. (For effective date - See note) Power of circuit court over juvenile offender.

A. In the hearing and disposition of felony cases properly before a circuit court having criminal jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a trial by jury on the issue of guilt or innocence and upon a finding of guilty, may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this law for the hearing and disposition of cases in the juvenile court.

B. *Upon a finding of guilty, whether the court sentences and commits the juvenile in accordance with the criminal laws of this Commonwealth or deals with the juvenile in the manner prescribed by this chapter, the record of the juvenile's conviction shall be treated the same as that of an adult and the clerk shall make the reports to the Central Criminal Records Exchange in the same manner as required by § 19.2-390.*

C. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile court and places the child on probation, the child may be supervised by a juvenile probation officer.

~~C.D.~~ Whether the court sentences and commits the child as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender Registry established pursuant to § 19.2-390.1.

§ 16.1-272. (Delayed effective date - See notes) Power of circuit court over juvenile offender.

A. In the hearing and disposition of felony cases properly before a circuit court having criminal jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a trial by jury on the issue of guilt or innocence and upon a finding of guilty, may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this law for the hearing and disposition of cases in the family court.

B. *Upon a finding of guilty, whether the court sentences and commits the juvenile in accordance with the criminal laws of this Commonwealth or deals with the juvenile in the manner prescribed by this chapter, the record of the juvenile's conviction shall be treated the same as that of an adult and the clerk shall make the reports to the Central Criminal Records Exchange in the same manner as required by § 19.2-390.*

C. If the circuit court decides to deal with the juvenile in the same manner as a case in the family court and places the child on probation, the child may be supervised by a juvenile probation officer of the family court.

~~C.D.~~ Whether the court sentences and commits the child as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender Registry established pursuant to § 19.2-390.1.

§ 16.1-299. (For effective date - See note) Fingerprints and photographs of juveniles.

A. Fingerprints of a juvenile fourteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult shall be taken and filed with the juvenile court by

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60 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
61 may also be taken and filed by local law-enforcement officers. Fingerprints of a juvenile thirteen years
62 of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a
63 firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in
64 § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy
65 as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny
66 as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes
67 as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned
68 felonies as provided in § 18.2-25 or § 18.2-26 shall be taken and filed with the juvenile court by
69 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
70 may also be taken and filed by local law-enforcement officers.

71 B. A juvenile may be fingerprinted and photographed regardless of age or offense if he has been
72 taken into custody for and charged with a violation of law, and a law-enforcement officer has
73 determined that there is probable cause to believe that latent fingerprints found during the investigation
74 of an offense are those of such juvenile.

75 C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed
76 of as follows:

77 1. If a petition is not filed against a juvenile whose fingerprints or photographs have been taken in
78 connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all
79 photographs shall be destroyed sixty days after fingerprints were taken.

80 2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal, finds a juvenile
81 not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all
82 photographs shall be destroyed within sixty days of such finding. However, all fingerprints and
83 photographs of a juvenile who is less than thirteen years of age and who is found guilty of a delinquent
84 act shall also be destroyed.

85 3. If the court finds that a juvenile thirteen years of age or older has committed a delinquent act, the
86 fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints
87 may be entered into any police department's computer system by identification number or by any other
88 method which insures the confidentiality of the juvenile's name.

89 4. If a juvenile fourteen years of age or older is ~~(i)~~ certified to the circuit court pursuant to Article 7
90 (§ 16.1-269.1 et seq.) of this chapter and is adjudicated delinquent or found guilty as an adult of the
91 offense charged ~~or (ii)~~, *the clerk of the court shall forward copies of the juvenile's fingerprints and a*
92 *report of the disposition, pursuant to § 19.2-390, to the Central Criminal Records Exchange, which shall*
93 *maintain the record pursuant to § 19.2-389. Such records shall not be subject to the expungement*
94 *provisions of § 16.1-306.*

95 5. *If a juvenile fourteen years of age or older is adjudicated delinquent or found guilty in juvenile*
96 *court of any offense which would be a felony if committed by an adult, or if a juvenile thirteen years of*
97 *age or older is found guilty of any of the offenses specified in subsection A of this section or an*
98 *attempt to commit any such offense in a juvenile court and is adjudicated delinquent, the clerk of the*
99 *court which heard the case shall forward copies of his the juvenile's fingerprints and a report of the*
100 *disposition shall be forwarded to the Central Criminal Records Exchange by the clerk of the court which*
101 *heard the case. Such records shall be subject to the provisions of §§ 16.1-305, 16.1-307, and 19.2-389.1.*

102 § 16.1-299. (Delayed effective date - See notes) Fingerprints and photographs of juveniles.

103 A. Fingerprints of a juvenile fourteen years of age or older who is charged with a delinquent act
104 which would be a felony if committed by an adult shall be taken and filed with the juvenile court by
105 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
106 may also be taken and filed by local law-enforcement officers. Fingerprints of a juvenile thirteen years
107 of age or older who is charged with bodily wounding as provided in § 18.2-51 or § 18.2-52, use of a
108 firearm in committing a felony as provided in § 18.2-53.1, attempted poisoning as provided in
109 § 18.2-54.1, extortion as provided in § 18.2-59, robbery, rape as provided in § 18.2-61, forcible sodomy
110 as provided in § 18.2-67.1, inanimate object sexual penetration as provided in § 18.2-67.2, grand larceny
111 as provided in § 18.2-95, burglary as provided in §§ 18.2-89 through 18.2-91, arson and related crimes
112 as provided in §§ 18.2-77 through 18.2-88 or murder, or any attempt to commit the above mentioned
113 felonies as provided in § 18.2-25 or § 18.2-26 shall be taken and filed with the juvenile court by
114 law-enforcement officers on forms provided by the Central Criminal Records Exchange. Photographs
115 may also be taken and filed by local law-enforcement officers.

116 B. A juvenile may be fingerprinted and photographed regardless of age or offense if he has been
117 taken into custody for and charged with a violation of law, and a law-enforcement officer has
118 determined that there is probable cause to believe that latent fingerprints found during the investigation
119 of an offense are those of such juvenile.

120 C. The fingerprints and photographs authorized in subsections A and B shall be retained or disposed
121 of as follows:

1. If a petition 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.

2. If the family court or the circuit court, pursuant to a transfer, waiver or appeal, finds a juvenile not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed within sixty days of such finding. However, all fingerprints and photographs of a juvenile who is less than thirteen years of age and who is found guilty of a delinquent act shall also be destroyed.

3. If the court finds that a juvenile thirteen years of age or older has committed a delinquent act, the fingerprints and photographs may be retained in a local file pursuant to § 16.1-301 and the fingerprints may be entered into any police department's computer system by identification number or by any other method which insures the confidentiality of the juvenile's name.

4. If a juvenile fourteen years of age or older is ~~(i)~~certified to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.) of this chapter and is adjudicated delinquent or found guilty as an adult of the offense charged ~~or (ii)~~, *the clerk of the court shall forward copies of the juvenile's fingerprints and a report of the disposition, pursuant to § 19.2-390, to the Central Criminal Records Exchange, which shall maintain the record pursuant to § 19.2-389. Such records shall not be subject to the expungement provisions of § 16.1-306.*

5. *If a juvenile fourteen years of age or older is adjudicated delinquent or found guilty in family court of any offense which would be a felony if committed by an adult, or if a juvenile thirteen years of age or older is found guilty of any of the offenses specified in subsection A of this section or an attempt to commit any such offense in a juvenile court and is adjudicated delinquent, the clerk of the court which heard the case shall forward copies of the juvenile's 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. Such records shall be subject to the provisions of §§ 16.1-305, 16.1-307, and 19.2-389.1.*