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HOUSE BILL NO. 1637

Offered January 8, 1997

Prefiled December 20, 1996

A *BILL to amend and reenact § 16.1-271 of the Code of Virginia, as it is currently effective and as it may become effective, and § 16.1-301 of the Code of Virginia, relating to release of law-enforcement records regarding juveniles.*

Patron—Brickley

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-271 of the Code of Virginia, as it is currently effective and as it may become effective, and § 16.1-301 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-271. Subsequent offenses by juvenile.

The trial or treatment of a juvenile as an adult pursuant to the provisions of this chapter shall preclude the juvenile court from taking jurisdiction of such juvenile for subsequent offenses committed by that juvenile.

Any juvenile who is tried and convicted in a circuit court as an adult under the provisions of this article shall be considered and treated as an adult in any criminal proceeding resulting from any alleged future criminal acts and any pending allegations of delinquency which have not been disposed of by the juvenile court at the time of the criminal conviction.

All procedures and dispositions applicable to adults charged with such a criminal offense shall apply in such cases, including, but not limited to, arrest *and the release of identifying arrest information by law-enforcement agencies*; probable cause determination by a magistrate or grand jury; the use of a warrant, summons, or capias instead of a petition to initiate the case; adult bail; preliminary hearing and right to counsel provisions; trial in a court having jurisdiction over adults; and trial and sentencing as an adult. The provisions of this article regarding a transfer hearing shall not be applicable to such juveniles.

§ 16.1-271. (Delayed effective date) Subsequent offenses by juvenile.

The trial or treatment of a juvenile as an adult pursuant to the provisions of this chapter shall preclude the family court from taking jurisdiction of such juvenile for subsequent offenses committed by that juvenile.

Any juvenile who is tried and convicted in a circuit court as an adult under the provisions of this article shall be considered and treated as an adult in any criminal proceeding resulting from any alleged future criminal acts and any pending allegations of delinquency which have not been disposed of by the family court at the time of the criminal conviction.

All procedures and dispositions applicable to adults charged with such a criminal offense shall apply in such cases, including, but not limited to, arrest *and the release of identifying arrest information by law-enforcement agencies*; probable cause determination by a magistrate or grand jury; the use of a warrant, summons, or capias instead of a petition to initiate the case; adult bail; preliminary hearing and right to counsel provisions; trial in a court having jurisdiction over adults; and trial and sentencing as an adult. The provisions of this article regarding a transfer hearing shall not be applicable to such juveniles.

§ 16.1-301. Confidentiality of law-enforcement records.

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. ~~Unless~~ *Whenever* a charge of delinquency is transferred for criminal prosecution in the circuit court pursuant to subsection B or C of § 16.1-269.1, or the time for appeal of the transfer decision made pursuant to subsection A of § 16.1-269.1 has expired, or whenever the court otherwise orders disclosure in the interests of the juvenile or of national security, such records with respect to such juvenile shall ~~not~~ be open to public inspection ~~not~~ and their contents *may be* disclosed to the public.

B. Inspection of such records 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;

INTRODUCED

HB1637

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

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

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

68 7. As provided in §§ 19.2-389.1 and 19.2-390.

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

74 D. Nothing in this section shall prohibit the exchange of other criminal investigative or intelligence
75 information among law-enforcement agencies.