



HOUSE BILL 415: Photos of Juveniles/Show-Ups.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 5, 2019
Introduced by:	Reps. Stevens, Barnes, Hanig, C. Smith	Prepared by:	Jennifer Bedford*
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: House Bill 415 would create an exception to the Juvenile Code regarding photographing a juvenile; require law enforcement to photograph a juvenile suspected of perpetrating a crime, at the time of a show-up in order to preserve evidence; and establish procedures to maintain the privacy of the juvenile photographed.

CURRENT LAW AND BILL ANALYSIS:

G.S. 7B-2103 A court order is generally required to conduct nontestimonial identification procedures such as taking a photograph and having a lineup on a juvenile unless the juvenile has been charged as an adult.

The North Carolina Supreme Court however held that show-ups of juveniles do not require a court order and are admissible if due process requirements are met. (*In re Stallings*, 318 N.C. 565 (1986)).

G.S. 7B-2102 provides that a juvenile's photograph and fingerprints can only be taken for limited purposes such as filing a petition alleging an act of delinquency, committing a juvenile to a detention facility, or in certain cases if a juvenile is adjudicated delinquent for an offense that would be a felony if committed by an adult.

The juvenile's fingerprints and photographs are not public records. They are confidential and must be maintained separately from any juvenile record.

Unless a petition is filed, probable cause is found, or the juvenile is adjudicated delinquent of certain offenses, the fingerprints and photographs must be destroyed in accordance with the law.

Section 1 of House Bill 415 would create an exception allowing a photograph to be taken of a juvenile suspected in committing a crime, at the time of a show-up to preserve a record of the juvenile's appearance.

G.S. 15A-284.52 provides the procedures for a show-up. Unlike a line-up, a show-up is conducted in close proximity in time and place to the crime, and the circumstances require an immediate display of a suspect to an eyewitness. A photograph of the suspect at the time of the show-up is required in order to preserve a record of the suspect's appearance.

Section 2 of House Bill 415 would:

- Establish statutory procedures to photograph a juvenile who is 10 years old or older, at the time and place of a show-up if the alleged offense is common law robbery or one that cannot be diverted to juvenile court.

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- Require that a photograph of a juvenile must be retained or disposed of as required by the Juvenile Code, and a written certification that the photograph was destroyed must be made by law enforcement if the allegation is filed as a petition in juvenile court.
- Provide that a photograph of a juvenile taken pursuant to a show-up is confidential and must be maintained separately from the court file.

EFFECTIVE DATE: This act is effective when it becomes law.

**Tawanda Foster, Staff Attorney for the Legislative Analysis Division, contributed to this summary.*