

## SENATE BILL NO. 649

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Hanger)

A BILL to amend and reenact §§ 16.1-301 and 16.1-305.2 of the Code of Virginia, relating to juvenile law-enforcement records; disclosures to school principals.

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-301 and 16.1-305.2 of the Code of Virginia are 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 of the Commonwealth, as the case may be, shall keep separate records as to violations of law committed by juveniles 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; or (iv) a violation of law as described in subsection G of § 16.1-260. If a chief of police, or 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~~ as specified in clauses (i) through (iv), 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, or 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, or 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, or 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

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

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

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

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

G. Nothing in this section shall prohibit the disclosure of law-enforcement records concerning a juvenile to a court services unit-authorized diversion program in accordance with this chapter, which includes programs authorized by subdivision 1 of § 16.1-227 and § 16.1-260. Such records shall not be further disclosed by the authorized diversion program or any participants therein. Law-enforcement officers may prohibit a disclosure to such a program to protect a criminal investigation or intelligence information.

**§ 16.1-305.2. Disclosure of notice of the filing of a petition and certain reports by division superintendent.**

Except as otherwise provided in this section, a division superintendent shall not disclose information contained in or derived from a (i) notice of petition received pursuant to § 16.1-260 or (ii)

81 report received pursuant to § 66-25.2:1. If the juvenile is not enrolled as a student in a public school in the  
82 division to which the notice or report was given, the superintendent shall promptly so notify the intake  
83 officer of the juvenile court in which the petition was filed or the Director of the Department who sent the  
84 report and may forward the notice of petition or report to the superintendent of the division in which the  
85 juvenile is enrolled, if known.

86 ~~If the~~ The division superintendent ~~believes that disclosure of information regarding a petition to~~  
87 ~~school personnel is necessary to ensure the physical safety of the juvenile, other students or school~~  
88 ~~personnel within the division, he may at any time prior to receipt of the notice of disposition in accordance~~  
89 ~~with § 16.1-305.1, shall~~ disclose the fact of the filing of the petition and the nature of the offense to the  
90 principal of the school in which the juvenile who is the subject of the petition is enrolled. The principal  
91 may further disseminate the information regarding a petition; after the juvenile has been taken into  
92 custody, whether or not the ~~child~~ juvenile has been released, only to those students and school personnel  
93 having direct contact with the juvenile and need of the information to ensure physical safety or the  
94 appropriate educational placement or other educational services.

95 If the division superintendent believes that disclosure of information regarding a report received  
96 pursuant to § 66-25.2:1 to school personnel is necessary to ensure the physical safety of the juvenile, other  
97 students, or school personnel within the division, he may disclose the information to the principal of the  
98 school in which the juvenile is enrolled. The principal may further disseminate the information regarding  
99 such report only to school personnel as necessary to protect the juvenile, the subject or subjects of the  
100 danger, other students, or school personnel.

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