

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**HOUSE BILL 415
RATIFIED BILL**

AN ACT TO CLARIFY THE REQUIREMENT TO TAKE A PHOTOGRAPH OF A SUSPECT
AT THE TIME OF A SHOW-UP WHERE THE SUSPECT IS A JUVENILE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7B-2103 reads as rewritten:

"§ 7B-2103. Authority to issue nontestimonial identification order where juvenile alleged to be delinquent.

Except as provided in ~~G.S. 7B-2102~~, G.S. 7B-2102 or G.S. 15A-284.52(c1), nontestimonial identification procedures shall not be conducted on any juvenile without a court order issued pursuant to this Article unless the juvenile has been charged as an adult or transferred to superior court for trial as an adult in which case procedures applicable to adults, as set out in Articles 14 and 23 of Chapter 15A of the General Statutes, shall apply. A nontestimonial identification order authorized by this Article may be issued by any judge of the district court or of the superior court upon request of a prosecutor. As used in this Article, "nontestimonial identification" means identification by fingerprints, palm prints, footprints, measurements, blood specimens, urine specimens, saliva samples, hair samples, or other reasonable physical examination, handwriting exemplars, voice samples, photographs, and lineups or similar identification procedures requiring the presence of a juvenile."

SECTION 2. G.S. 15A-284.52(c1) reads as rewritten:

"(c1) Show-Up Procedures. – A show-up conducted by State, county, and other local law enforcement officers shall meet all of the following requirements:

- (1) A show-up may only be conducted when a suspect matching the description of the perpetrator is located in close proximity in time and place to the crime, or there is reasonable belief that the perpetrator has changed his or her appearance in close time to the crime, and only if there are circumstances that require the immediate display of a suspect to an eyewitness.
- (2) A show-up shall only be performed using a live suspect and shall not be conducted with a photograph.
- (3) Investigators shall photograph a suspect at the time and place of the show-up to preserve a record of the appearance of the suspect at the time of the show-up procedure.
- (4) Notwithstanding G.S. 7B-2103, an investigator shall photograph a juvenile suspect who is 10 years of age or older at the time and place of the show-up as required by this subsection if the juvenile is reported to have committed a nondivertible offense as set forth in G.S. 7B-1701 or common law robbery. Photographs of juveniles shall be retained or disposed of as required by G.S. 7B-2108, except that the law enforcement agency is required to make written certification to the court of the destruction of records under G.S. 7B-2108(6) only if a petition was filed. Photographs taken pursuant to this subdivision are not public records under Chapter 132 of the General Statutes and the photographs shall be (i) kept separate from the records of



adults, (ii) withheld from public inspection, and (iii) examined only by order of the court, except that the following persons may examine it without an order of the court:

- a. The juvenile or the juvenile's attorney.
- b. The juvenile's parent or guardian.
- c. The prosecutor.
- d. Court counselors."

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17th day of June, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2019