

SENATE BILL 43

E3

7lr0120

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Juvenile Services)**

Requested: October 20, 2016

Introduced and read first time: January 11, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: January 31, 2017

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Court Records – Disclosure**

3 FOR the purpose of establishing that certain provisions regarding the confidentiality of
4 juvenile court records do not prohibit access to and confidential use of a juvenile court
5 record by the Department of Human Resources for the purpose of claiming certain
6 federal funds; and generally relating to juvenile court records.

7 BY repealing and reenacting, with amendments,
8 Article – Courts and Judicial Proceedings
9 Section 3–8A–27(b)
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2016 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Courts and Judicial Proceedings**

15 3–8A–27.

16 (b) (1) A court record pertaining to a child is confidential and its contents may
17 not be divulged, by subpoena or otherwise, except by order of the court upon good cause
18 shown or as provided in §§ 7–303 and 22–309 of the Education Article.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of the Department of Juvenile Services.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, this subsection does not prohibit access to and confidential use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article by the Department of Juvenile Services or in an investigation and prosecution by a law enforcement agency.

(ii) The court record or fingerprints of a child described under §§ 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be disclosed to:

1. A federal criminal justice agency or information center; or

2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.

(4) (i) The Department of Juvenile Services may provide access to and the confidential use of the court record of a child by an agency in the District of Columbia or a state agency in Delaware, Pennsylvania, Virginia, or West Virginia, if the agency:

1. Performs the same functions in the jurisdiction of the agency as described in § 9–216(a) of the Human Services Article; and

2. Has a reciprocal agreement with the State that provides that the specific information to be shared by the State is the same type of information that will be shared by the agency.

(ii) A record that is shared under this paragraph may only provide information that is relevant to the supervision, care, and treatment of the child.

(iii) The Department of Juvenile Services shall be liable for an unauthorized release of a court record under this paragraph.

(iv) The Department of Juvenile Services shall adopt regulations to implement this paragraph.

(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, the State's Attorney, or the Maryland Division of Pretrial Detention and Services if:

1 1. The individual who is the subject of the court record is
2 charged as an adult with an offense;

3 2. The access to and use of the court record is strictly limited
4 for the purpose of determining the defendant's eligibility for pretrial release; and

5 3. The court record concerns an adjudication of delinquency
6 that occurred within 3 years of the date the individual is charged as an adult.

7 (ii) The Court of Appeals may adopt rules to implement the
8 provisions of this paragraph.

9 (6) (i) This subsection does not prohibit access to and confidential use
10 of a court record by the Department of Human Resources for the purpose of claiming federal
11 **TITLE IV–B AND** Title IV–E funds.

12 (ii) The Department of Human Resources shall be liable for the
13 unauthorized release of a court record under this paragraph.

14 (7) This subsection does not prohibit access to and confidential use of a
15 court record by the Baltimore City Health Department's Office of Youth Violence
16 Prevention:

17 (i) If the Baltimore City Health Department's Office of Youth
18 Violence Prevention is providing treatment or care to a child who is the subject of the
19 record, for a purpose relevant to the provision of the treatment or care;

20 (ii) If the record concerns a child convicted of a crime or adjudicated
21 delinquent for an act that caused a death or near fatality; or

22 (iii) If the record concerns a victim of a crime of violence, as defined
23 in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the
24 purpose of developing appropriate programs and policies aimed at reducing violence
25 against children in Baltimore City.

26 (8) This subsection does not prohibit access to and confidential use of a
27 court record by the Baltimore City Mayor's Office on Criminal Justice if the Baltimore City
28 Mayor's Office on Criminal Justice is providing programs and services in conjunction with
29 the Baltimore Police Department to a child who is the subject of the record, for a purpose
30 relevant to the provision of the programs and services and the development of a
31 comprehensive treatment plan.

32 (9) (i) The Baltimore City Health Department's Office of Youth
33 Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall be liable
34 for the unauthorized release of a court record it accesses under this subsection.

(ii) Within 180 days after the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice accesses a court record under this subsection, the Baltimore City Health Department's Office of Youth Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall submit a report to the court detailing the purposes for which the record was used.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.