

HOUSE BILL 358

E3
HB 1142/22 – JUD

3lr0357

By: **Delegate Attar**

Introduced and read first time: January 26, 2023

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Services – Juvenile Felony Database**

3 FOR the purpose of requiring the Department of Juvenile Services, in coordination with
4 the Administrative Office of the Courts, to develop a publicly accessible searchable
5 database of offenses committed by juveniles that would be a felony if committed by
6 an adult; prohibiting the database from containing certain identifying information;
7 and generally relating to the duties of the Department of Juvenile Services and the
8 confidentiality of juvenile records.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–8A–27(a) through (c)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2022 Supplement)

14 BY adding to
15 Article – Courts and Judicial Proceedings
16 Section 3–8A–27(i)
17 Annotated Code of Maryland
18 (2020 Replacement Volume and 2022 Supplement)

19 BY adding to
20 Article – Human Services
21 Section 9–224
22 Annotated Code of Maryland
23 (2019 Replacement Volume and 2022 Supplement)

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

26 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-8A-27.

2 (a) (1) A police record concerning a child is confidential and shall be
3 maintained separate from those of adults. Its contents may not be divulged, by subpoena
4 or otherwise, except by order of the court upon good cause shown or as otherwise provided
5 in § 7-303 of the Education Article.

6 (2) This subsection does not prohibit:

7 (i) Access to and confidential use of the record by the Department of
8 Juvenile Services or in the investigation and prosecution of the child by any law
9 enforcement agency;

10 (ii) Access to and confidential use of the record by the Baltimore City
11 Mayor's Office on Criminal Justice if the Baltimore City Mayor's Office on Criminal Justice
12 is providing programs and services to a child who is the subject of the record, for a purpose
13 relevant to the provisions of the programs and services and the development of a
14 comprehensive treatment plan;

15 (iii) A law enforcement agency of the State or of a political subdivision
16 of the State, the Department of Juvenile Services, or the criminal justice information
17 system from including in the law enforcement computer information system information
18 about:

19 1. An outstanding juvenile court ordered writ of attachment
20 or an outstanding criminal court ordered writ of attachment, for the sole purpose of
21 apprehending a child named in the writ;

22 2. An outstanding criminal court issued warrant, for the sole
23 purpose of apprehending a child named in the warrant; or

24 3. A missing child as defined in § 9-401 of the Family Law
25 Article; or

26 (iv) A law enforcement agency of the State or of a political subdivision
27 of the State, when necessary and for the sole purposes of facilitating apprehension of a child
28 and ensuring public safety, from releasing to the public photographs and identifying
29 information of a child who:

30 1. Has escaped from:

31 A. A detention center for juveniles;

32 B. A secure residential facility for juveniles; or

33 C. A correctional unit as defined in § 2-401 of the

1 Correctional Services Article;

2 2. Is a missing child as defined in § 9–401 of the Family Law
3 Article; or

4 3. The court does not have jurisdiction over pursuant to §
5 3–8A–03(e)(1), (4), or (5) of this subtitle and who is subject to:

6 A. Arrest; or

7 B. An arrest warrant issued by a criminal court.

8 (3) The Baltimore City Mayor’s Office on Criminal Justice shall be liable
9 for the unauthorized release of a police record it accesses under this subsection.

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

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

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

23 (ii) The court record or fingerprints of a child described under §§
24 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be
25 disclosed to:

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

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

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

32 1. Performs the same functions in the jurisdiction of the
33 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. The individual who is the subject of the court record is charged as an adult with an offense;

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

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

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

(6) (i) This subsection does not prohibit access to and confidential use of a court record by the Department of Human Services or a local department of social services:

1. For the purpose of claiming federal Title IV-B and Title IV-E funds; or

2. If the Department of Human Services or a local department of social services is providing treatment, services, or care to a child who is the subject of the record.

(ii) The Department of Human Services and local departments of social services shall keep a court record obtained under this paragraph confidential in accordance with the laws and policies applicable to the Department of Human Services and local departments of social services.

(7) (i) This subsection does not prohibit access to and confidential use

of a court record by the Maryland Department of Health or a local health department if the Maryland Department of Health or a local health department is providing treatment, services, or care in coordination with the Department of Juvenile Services to a child who is the subject of the record, for a purpose relevant to the provision of the treatment, services, or care.

(ii) The Maryland Department of Health and local health departments shall keep a court record obtained under this paragraph confidential in accordance with the laws and policies applicable to the Maryland Department of Health and local health departments.

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

(9) The Baltimore City Mayor's Office on Criminal Justice shall be liable for the unauthorized release of a court record it accesses under this subsection.

(10) This subsection does not prohibit access to and confidential use of a court record by the State Advisory Board for Juvenile Services if the Board is performing the functions described under § 9-215(5) of the Human Services Article.

(c) The court, on its own motion or on petition, and for good cause shown, may order the court records of a child sealed, and, upon petition or on its own motion, shall order them sealed after the child has reached 21 years of age. If sealed, the court records of a child may not be opened, for any purpose, except by order of the court upon good cause shown.

(I) THIS SECTION DOES NOT PROHIBIT THE PUBLICATION OF, OR ACCESS TO OR USE OF, INFORMATION DESCRIBED IN § 9-224 OF THE HUMAN SERVICES ARTICLE.

Article – Human Services

9-224.

(A) THE DEPARTMENT, IN COORDINATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP, MAINTAIN, REGULARLY UPDATE, AND PUBLISH ON ITS WEBSITE A SEARCHABLE DATABASE OF ALL OFFENSES INVOLVING JUVENILES THAT WOULD BE A FELONY IF COMMITTED BY AN ADULT.

(B) THE DATABASE SHALL INCLUDE:

(1) A DESCRIPTION OF THE OFFENSE;

(2) THE DATE THE OFFENSE OCCURRED;

(3) THE LOCATION OF THE OFFENSE;

(4) A GENERAL DESCRIPTION OF ANY JUDICIAL OR OTHER ACTION
TAKEN IN RELATION TO A JUVENILE ALLEGED TO HAVE COMMITTED THE OFFENSE,
INCLUDING WHETHER THE JUVENILE WAS REFERRED TO A DIVERSION OR
TREATMENT PROGRAM; AND

(5) ANY PRIOR OFFENSES COMMITTED BY THE JUVENILE.

(C) THE DATABASE MAY NOT INCLUDE ANY IDENTIFYING INFORMATION
REGARDING A JUVENILE, INCLUDING:

(1) THE NAME OF THE JUVENILE;

(2) THE AGE OR AGE GROUP OF THE JUVENILE;

(3) THE RACE OF THE JUVENILE;

(4) THE JUVENILE'S ADDRESS; OR

(5) ANY KNOWN ALIAS OF THE JUVENILE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2023.