

HOUSE BILL 672

E3

1lr1760

By: **Delegate Attar**

Introduced and read first time: January 26, 2021

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Juvenile Services – Juvenile Offense 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 certain publicly accessible
5 database; requiring the database to contain certain information; prohibiting the
6 database from containing certain information; providing that certain provisions of
7 law mandating the confidentiality of certain juvenile records do not prohibit the
8 publication of, or access to or use of, certain information concerning certain juveniles
9 in a certain database; and generally relating to the duties of the Department of
10 Juvenile Services and the confidentiality of juvenile records.

11 BY repealing and reenacting, without amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–8A–27(a) through (c)
14 Annotated Code of Maryland
15 (2020 Replacement Volume)

16 BY adding to
17 Article – Courts and Judicial Proceedings
18 Section 3–8A–27(i)
19 Annotated Code of Maryland
20 (2020 Replacement Volume)

21 BY adding to
22 Article – Human Services
23 Section 9–224
24 Annotated Code of Maryland
25 (2019 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings

3–8A–27.

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

(2) This subsection does not prohibit:

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

(ii) Access to and confidential use of the 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 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;

(iii) A law enforcement agency of the State or of a political subdivision of the State, the Department of Juvenile Services, or the criminal justice information system from including in the law enforcement computer information system information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ; or

(iv) A law enforcement agency of the State or of a political subdivision of the State from releasing to the public photographs and identifying information of a child who has escaped from a detention center for juveniles or a secure residential facility for juveniles, for the purposes of facilitating apprehension of the child and ensuring public safety.

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

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

(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.

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

6 (ii) The court record or fingerprints of a child described under §§
7 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be
8 disclosed to:

- 9 1. A federal criminal justice agency or information center; or
- 10 2. Any law enforcement agency other than a law enforcement
11 agency of the State or a political subdivision of the State.

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

- 15 1. Performs the same functions in the jurisdiction of the
16 agency as described in § 9–216(a) of the Human Services Article; and
- 17 2. Has a reciprocal agreement with the State that provides
18 that the specific information to be shared by the State is the same type of information that
19 will be shared by the agency.

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

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

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

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

- 30 1. The individual who is the subject of the court record is
31 charged as an adult with an offense;
- 32 2. The access to and use of the court record is strictly limited
33 for the purpose of determining the defendant's eligibility for pretrial release; and
- 34 3. The court record concerns an adjudication of delinquency

1 that occurred within 3 years of the date the individual is charged as an adult.

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

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

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

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

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

16 (7) (i) This subsection does not prohibit access to and confidential use
17 of a court record by the Maryland Department of Health or a local health department if the
18 Maryland Department of Health or a local health department is providing treatment,
19 services, or care in coordination with the Department of Juvenile Services to a child who is
20 the subject of the record, for a purpose relevant to the provision of the treatment, services,
21 or care.

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

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 Department of Juvenile Services to a child who is the subject of the record, for a purpose
30 relevant to the provisions of the programs and services and the development of a
31 comprehensive treatment plan.

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

34 (10) This subsection does not prohibit access to and confidential use of a
35 court record by the State Advisory Board for Juvenile Services if the Board is performing
36 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 A SEARCHABLE DATABASE OF ALL OFFENSES INVOLVING JUVENILES ON ITS WEBSITE.

(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

1 **(5)** ANY KNOWN ALIAS OF THE JUVENILE.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2021.