

HOUSE BILL 233

J1, J2, E2

7lr0388

By: **Delegates Barron, West, Fennell, and Hettleman**

Introduced and read first time: January 20, 2017

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Disclosure of Medical Records – Guardian Ad Litem – Victims of Crime or**
3 **Delinquent Acts**

4 FOR the purpose of requiring a health care provider to disclose a medical record without
5 certain authorization to a guardian ad litem appointed by a court to protect certain
6 interests of a minor or a disabled or elderly individual who is a victim of a crime or
7 certain act, for a certain purpose and use; authorizing a certain guardian ad litem to
8 redisclose a certain record under certain circumstances; prohibiting a health care
9 provider from charging a certain fee to a certain guardian ad litem; and generally
10 relating to the disclosure and redisclosure of medical records.

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 4–302(d), 4–304(c)(5), and 4–306(b)(10) and (11)
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2016 Supplement)

16 BY adding to
17 Article – Health – General
18 Section 4–306(b)(12)
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2016 Supplement)

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

23 **Article – Health – General**

24 4–302.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(d) A person to whom a medical record is disclosed may not redisclose the medical record to any other person unless [the]:

(1) THE redisclosure is:

[(1)] (I) Authorized by the person in interest;

[(2)] (II) Otherwise permitted by this subtitle;

[(3)] (III) Permitted under § 1–202(b) or (c) of the Human Services Article;
or

[(4)] (IV) Directory information; **OR**

(2) (I) THE PERSON TO WHOM THE MEDICAL RECORD WAS DISCLOSED IS A GUARDIAN AD LITEM WHO RECEIVED THE MEDICAL RECORD IN ACCORDANCE WITH § 4–306(B)(12) OF THIS SUBTITLE;

(II) A REASONABLE EFFORT TO SECURE A QUALIFIED PROTECTIVE ORDER HAS BEEN MADE IN ACCORDANCE WITH 42 C.F.R. § 164.512(E)(1)(V); AND

(III) THE GUARDIAN AD LITEM DETERMINES THAT IT IS NECESSARY TO REDISCLOSE THE MEDICAL RECORD TO CARRY OUT THE GUARDIAN AD LITEM’S OFFICIAL FUNCTION TO PROTECT THE BEST INTERESTS OF A MINOR OR A DISABLED OR ELDERLY INDIVIDUAL IN A CRIMINAL OR JUVENILE DELINQUENCY COURT PROCEEDING.

4–304.

(c) (5) (i) Except as provided in subparagraph (ii) of this paragraph, a health care provider may charge a fee, as authorized under paragraphs (3) and (4) of this subsection, for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of a medical record disclosed under § 4–306 of this subtitle.

(ii) If a government unit or agency **OR COURT-APPOINTED GUARDIAN AD LITEM IN A CRIMINAL OR JUVENILE DELINQUENCY COURT PROCEEDING** makes a request for the disclosure of a medical record under § 4–306 of this subtitle, a health care provider may not charge the government unit or agency **OR COURT-APPOINTED GUARDIAN AD LITEM** a fee for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of the medical record.

4–306.

(b) A health care provider shall disclose a medical record without the authorization of a person in interest:

(10) To a local domestic violence fatality review team established under Title 4, Subtitle 7 of the Family Law Article as necessary to carry out its official functions; [or]

(11) To a local drug overdose fatality review team established under Title 5, Subtitle 9 of this article as necessary to carry out its official functions, subject to:

(i) The additional limitations under § 4-307 of this subtitle for disclosure of a medical record developed primarily in connection with the provision of mental health services; and

(ii) Any additional limitations for disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services under State law or 42 U.S.C. § 290DD-2 and 42 C.F.R. Part 2; OR

(12) TO A GUARDIAN AD LITEM APPOINTED BY A COURT TO PROTECT THE BEST INTERESTS OF A MINOR OR A DISABLED OR ELDERLY INDIVIDUAL WHO IS A VICTIM OF A CRIME OR A DELINQUENT ACT, FOR THE SOLE PURPOSE AND USE OF THE GUARDIAN AD LITEM IN CARRYING OUT THE GUARDIAN AD LITEM'S OFFICIAL FUNCTION TO PROTECT THE BEST INTERESTS OF THE MINOR OR THE DISABLED OR ELDERLY INDIVIDUAL IN A CRIMINAL OR JUVENILE DELINQUENCY COURT PROCEEDING AS PERMITTED UNDER 42 C.F.R. § 164.512(E).

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