

SENATE BILL 91

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8lr0099

(PRE-FILED)

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

Requested: September 29, 2017

Introduced and read first time: January 10, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Disclosure of Court Records**

3 FOR the purpose of establishing that a prohibition against the disclosure of court records
4 pertaining to a certain child does not prohibit access to and confidential use of the
5 court record by the Department of Human Services, local departments of social
6 services, the Maryland Department of Health, or local health departments for certain
7 purposes; requiring the Department of Human Services, local departments of social
8 services, the Maryland Department of Health, and local health departments to keep
9 certain disclosed records confidential in accordance with certain laws and policies;
10 and generally relating to juvenile law and juvenile records.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–8A–27(b)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2017 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 3–8A–27.

20 (b) (1) A court record pertaining to a child is confidential and its contents may
21 not be divulged, by subpoena or otherwise, except by order of the court upon good cause
22 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.



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

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

11 (ii) The court record or fingerprints of a child described under
12 §§ 10-215(a)(20) and (21), 10-216, and 10-220 of the Criminal Procedure Article may not
13 be disclosed to:

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

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

- 20 1. Performs the same functions in the jurisdiction of the
21 agency as described in § 9-216(a) of the Human Services Article; and
- 22 2. Has a reciprocal agreement with the State that provides
23 that the specific information to be shared by the State is the same type of information that
24 will be shared by the agency.

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

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

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

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

- 35 1. The individual who is the subject of the court record is

1 charged as an adult with an offense;

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

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

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

8 (6) (i) This subsection does not prohibit access to and confidential use
9 of a court record by the Department of Human Services **OR A LOCAL DEPARTMENT OF**
10 **SOCIAL SERVICES** for [the]:

11 1. **THE** purpose of claiming federal Title IV-B and Title
12 IV-E funds;

13 2. **IF THE DEPARTMENT OF HUMAN SERVICES OR A**
14 **LOCAL DEPARTMENT OF SOCIAL SERVICES IS PROVIDING SERVICES OR CARE FOR A**
15 **CHILD WHO IS THE SUBJECT OF THE RECORD, A PURPOSE RELEVANT TO THE**
16 **PROVISION OF THE SERVICES OR CARE; OR**

17 3. **THE PURPOSE OF CONDUCTING AN INVESTIGATION**
18 **OF CHILD ABUSE OR NEGLECT INVOLVING THE CHILD WHO IS THE SUBJECT OF THE**
19 **RECORD.**

20 (ii) The Department of Human Services [shall be liable for the
21 unauthorized release of a court record under this paragraph] **AND LOCAL DEPARTMENTS**
22 **OF SOCIAL SERVICES SHALL KEEP A COURT RECORD OBTAINED UNDER THIS**
23 **PARAGRAPH CONFIDENTIAL IN ACCORDANCE WITH THE LAWS AND POLICIES**
24 **APPLICABLE TO THE DEPARTMENT OF HUMAN SERVICES AND LOCAL**
25 **DEPARTMENTS OF SOCIAL SERVICES.**

26 (7) (i) **THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
27 **CONFIDENTIAL USE OF A COURT RECORD BY THE MARYLAND DEPARTMENT OF**
28 **HEALTH OR A LOCAL HEALTH DEPARTMENT IF THE MARYLAND DEPARTMENT OF**
29 **HEALTH OR A LOCAL HEALTH DEPARTMENT IS PROVIDING TREATMENT, SERVICES,**
30 **OR CARE FOR A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A PURPOSE**
31 **RELEVANT TO THE PROVISION OF THE TREATMENT, SERVICES, OR CARE.**

32 (ii) **THE MARYLAND DEPARTMENT OF HEALTH AND LOCAL**
33 **HEALTH DEPARTMENTS SHALL KEEP A COURT RECORD OBTAINED UNDER THIS**
34 **PARAGRAPH CONFIDENTIAL IN ACCORDANCE WITH THE LAWS AND POLICIES**

1 **APPLICABLE TO THE MARYLAND DEPARTMENT OF HEALTH AND LOCAL HEALTH**
2 **DEPARTMENTS.**

3 **[(7)] (8)** This subsection does not prohibit access to and confidential use
4 of a court record by the Baltimore City Health Department's Office of Youth Violence
5 Prevention:

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

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

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

15 **[(8)] (9)** This subsection does not prohibit access to and confidential use
16 of a court record by the Baltimore City Mayor's Office on Criminal Justice if the Baltimore
17 City Mayor's Office on Criminal Justice is providing programs and services in conjunction
18 with the Baltimore Police Department to a child who is the subject of the record, for a
19 purpose relevant to the provision of the programs and services and the development of a
20 comprehensive treatment plan.

21 **[(9)] (10)** (i) The Baltimore City Health Department's Office of Youth
22 Violence Prevention or the Baltimore City Mayor's Office on Criminal Justice shall be liable
23 for the unauthorized release of a court record it accesses under this subsection.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2018.