

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** House Judiciary Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** House Bill 672  
Department of Juvenile Services – Juvenile Offense Database  
**DATE:** February 3, 2021  
(2/11)  
**POSITION:** Oppose

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The Maryland Judiciary opposes House Bill 672. This legislation adds a provision requiring the Department of Juvenile Services (the “Department”), in coordination with the Administrative Office of the Courts, to develop a publicly accessible database. The database will provide certain information that does not violate provisions of the law mandating the confidentiality of certain juvenile records.

There no discernable way to obtain information on prior offenses committed by a juvenile and no practical and accurate way for the court to research a juvenile’s record in Maryland or outside Maryland. Such information generally resides in separate databases maintained by other state and federal agencies. Developing a database would necessitate expenditure of significant hours and would likely take months or years to create. Apart from developing the database, the larger concern is that the courts have no current mechanism for populating the data which resides in other databases.

Further, the Judiciary is concerned that the information required to be made publicly available by the proposed legislation will result in the inadvertent disclosure of confidential juvenile records. While the proposal does not explicitly state whether the database is intended to be available to the public, the amendment to § 3-8A-27 suggests that intent. If so, practical experience concludes that through google and other sources, it will be possible to identify individual children - and their treatment plans and other personal services - through the information that will be posted. This release of information may well have a deleterious effect on the child.

In addition, the population of individuals to whom the bill applies is not clear. The term “juvenile” is not defined in the bill, nor is it defined in Courts and Judicial Proceedings Title 3, Subtitle 8A, HS Title 9, or elsewhere in Code. The term could be interpreted to apply to all individuals served by the Department, in which case it would include certain individuals age 18 and over. Alternatively, it also could be interpreted to mean “child” in which case the

term would mean an individual under the age of 18 years per Courts and Judicial Proceedings § 3-8A-01(d). Similarly, it is unclear whether the bill is intended only to apply to an individual who is before the juvenile court or whether it would also apply to a child whose case is being heard in adult criminal court pursuant to Courts and Judicial Proceedings §§ 3-8A-03 or 3-8A-06.

Also, the bill may apply to Child in Need of Supervision (CINS) children. The bill uses the term “searchable database of all offenses involving juveniles” [emphasis added]. The bill does not define the term “offense”. In Courts and Judicial Proceedings 3-8A, the term “offense” is used to refer to acts by a child in need of supervision, defined as “a child who requires guidance, treatment, or rehabilitation and:

- (1) Is required by law to attend school and is habitually truant;
- (2) Is habitually disobedient, ungovernable, and beyond the control of the person having custody of him;
- (3) Deports himself so as to injure or endanger himself or others; or
- (4) Has committed an offense applicable only to children.

Subsection (e) [emphasis added]; contrast the definition of a “delinquent child” as a child who has committed an act which would be a crime if committed by an adult and who requires guidance, treatment, or rehabilitation. Courts and Judicial Proceedings § 3-8A-01(m)(1). It is thus possible that by its language, the bill could make public instances in which a child did not commit any crime.

Finally, an unintended consequence of the bill is that it may erode public confidence in the Judiciary. The primary purpose of the juvenile court is rehabilitation. Thus, in designing a disposition of a child before the juvenile court, the court is seeking to craft a program that is not punishing the child, but is seeking to help that child become an adult who lives a successful life away from any involvement with the adult justice system. The public, reviewing information that shows a child with, perhaps, several offenses, may not understand why a disposition maintains the child in the home and not in placed in a facility, and (because of confidentiality and in the interest of the child’s rehabilitation) the database cannot contain the information that will explain the placement.

cc. Hon. Dalya Attar  
Judicial Council  
Legislative Committee  
Kelley O’Connor