
By: Senator Madden

Introduced and read first time: February 7, 1997

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Reports and Records - Confidentiality**

3 FOR the purpose of authorizing the disclosure of information contained in certain
4 reports and records concerning child abuse or neglect to personnel of the
5 Department of Juvenile Justice; authorizing the disclosure of certain reports and
6 records to State's Attorneys; authorizing certain personnel of the Social Services
7 Administration to access and use the court records of children; authorizing a county
8 superintendent of schools or the Superintendent of Public Instruction in Baltimore
9 City to access and use a juvenile record if it is in the best interest of the child or the
10 community; authorizing the disclosure of the disposition of a juvenile to the victim
11 of the particular charges adjudicated; requiring a local department of social services
12 to disclose to the local State's Attorney supplemental reports concerning an
13 investigation of suspected abuse; and generally relating to reports and records
14 concerning juveniles.

15 BY repealing and reenacting, with amendments,
16 Article 88A - Department of Human Resources
17 Section 6(b)
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Courts and Judicial Proceedings
22 Section 3-828
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1996 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Family Law
27 Section 5-706(i)
28 Annotated Code of Maryland
29 (1991 Replacement Volume and 1996 Supplement)

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

2

1 **Article 88A - Department of Human Resources**

2 6.

3 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law Article,
4 all records and reports concerning child abuse or neglect are confidential, and their
5 unauthorized disclosure is a criminal offense subject to the penalty set out in subsection
6 (e) of this section. Reports or records concerning child abuse or neglect may be disclosed
7 only:

8 (1) (i) Under a court order; or

9 (ii) Under an order of an administrative law judge, if the request for
10 disclosure concerns a case pending before the office of administrative hearings and
11 provisions are made to comply with other State or federal confidentiality laws and to
12 protect the identity of the reporter or other person whose life or safety is likely to be
13 endangered by disclosure;

14 (2) To personnel of local or State departments of Social Services, law
15 enforcement personnel, PERSONNEL OF THE DEPARTMENT OF JUVENILE JUSTICE, and
16 members of multidisciplinary case consultation teams, who are investigating a report of
17 known or suspected child abuse or neglect or who are providing services to a child or
18 family that is the subject of the report;

19 (3) To local or State officials responsible for the administration of the child
20 protective service or child care licensing and regulations as necessary to carry out their
21 official functions;

22 (4) To a person who is the alleged child abuser or the person who is
23 suspected of child neglect if that person is responsible for the child's welfare and
24 provisions are made for the protection of the identity of the reporter or any other person
25 whose life or safety is likely to be endangered by disclosing the information;

26 (5) To a licensed practitioner who, or an agency, institution, or program
27 which is providing treatment or care to a child who is the subject of a report of child
28 abuse or neglect for a purpose relevant to the provision of the treatment or care;

29 (6) To a parent or other person who has permanent or temporary care and
30 custody of a child, if provisions are made for the protection of the identity of the reporter
31 or any other person whose life or safety is likely to be endangered by disclosing the
32 information;

33 (7) To the appropriate public school superintendent for the purpose of
34 carrying out appropriate personnel actions following a report of suspected child abuse
35 involving a student committed by a public school employee in that school system; [or]

36 (8) To the director of a licensed child care facility or licensed child
37 placement agency for the purpose of carrying out appropriate personnel actions following
38 a report of suspected child neglect or abuse alleged to have been committed by an
39 employee of the facility or agency and involving a child who is currently or who was
40 previously under that facility or agency's care; OR

3

1 (9) UPON WRITTEN REQUEST, TO A STATE'S ATTORNEY FOR USE IN A
2 CRIMINAL INVESTIGATION, PROSECUTION, OR CRIMINAL PROCEEDING OF A CHILD
3 ABUSE OR NEGLECT CASE.

4 **Article - Courts and Judicial Proceedings**

5 3-828.

6 (a) A police record concerning a child is confidential and shall be maintained
7 separate from those of adults. Its contents may not be divulged, by subpoena or otherwise,
8 except by order of the court upon good cause shown or as otherwise provided in § 7-303
9 of the Education Article. This subsection does not prohibit access to and confidential use
10 of the record by the Department of Juvenile Justice or in the investigation and
11 prosecution of the child by any law enforcement agency.

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

15 (2) This subsection does not prohibit access to and the use of the court
16 record or fingerprints of a child described under the Criminal Justice Information System
17 subtitle of Article 27 of the Code in a proceeding in the court involving the child, by
18 personnel of the court, the State's Attorney, counsel for the child, a court-appointed
19 special advocate for the child, or authorized personnel of the Department of Juvenile
20 Justice, or, in a proceeding involving a child alleged to be in need of assistance, by
21 authorized personnel of the Social Services Administration and local departments of
22 social services of the Department of Human Resources in order to conduct a child abuse
23 or neglect investigation or to comply with requirements imposed under Title IV-E of the
24 Social Security Act.

25 (3) Information obtained from a juvenile court record by authorized
26 personnel of the Department of Human Resources under paragraph (2) of this subsection
27 is subject to the provisions of Article 88A, § 6 of the Code.

28 (4) (i) Except as provided in subparagraph (ii) of this paragraph, this
29 subsection does not prohibit access to and confidential use of the court record or
30 fingerprints of a child described under the Criminal Justice Information System subtitle
31 of Article 27 of the Code in an investigation and prosecution by a law enforcement
32 agency.

33 (ii) The court record or fingerprints of a child described under Article
34 27, §§ 747(a)(21) and 747A of the Code may not be disclosed to:

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

36 2. Any law enforcement agency other than a law enforcement
37 agency of the State or a political subdivision of the State.

38 (5) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND USE OF A
39 COURT RECORD PERTAINING TO A CHILD BY AUTHORIZED PERSONNEL OF THE
40 SOCIAL SERVICES ADMINISTRATION WHEN CARRYING OUT STATUTORY DUTIES OF
41 THE ADMINISTRATION.

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

6 (d) This section does not prohibit access to or use of any juvenile record by the
 7 Maryland Division of Parole and Probation or the Maryland Parole Commission when the
 8 Division or the Commission is carrying out any of their statutory duties either at the
 9 direction of a court of competent jurisdiction, or when the Maryland Parole Commission
 10 is carrying out any of its statutory duties, if the record concerns a charge or adjudication
 11 of delinquency.

12 (e) This section does not prohibit access to and use of any juvenile record by the
 13 Maryland Division of Correction when the Division is carrying out any of its statutory
 14 duties if: (1) the individual to whom the record pertains is committed to the custody of
 15 the Division; and (2) the record concerns an adjudication of delinquency.

16 (f) Subject to the provisions of Article 83C, § 2-115 of the Code, this section does
 17 not prohibit access to or use of any juvenile record for criminal justice research purposes.
 18 A record used under this subsection may not contain the name of the individual to whom
 19 the record pertains, or any other identifying information which could reveal the
 20 individual's name.

21 (G) THIS SECTION DOES NOT PROHIBIT ACCESS TO AND USE OF ANY
 22 JUVENILE RECORD BY A COUNTY SUPERINTENDENT OF SCHOOLS OR THE
 23 SUPERINTENDENT OF PUBLIC INSTRUCTION IN BALTIMORE CITY IF IT IS IN THE
 24 BEST INTEREST OF THE CHILD OR THE COMMUNITY.

25 (H) THIS SECTION DOES NOT PROHIBIT THE DISCLOSURE OF THE
 26 DISPOSITION OF A JUVENILE TO THE VICTIM OF THE PARTICULAR CHARGES
 27 ADJUDICATED.

28 **Article - Family Law**

29 5-706.

30 (i) (1) Within 5 business days after completion of the investigation of suspected
 31 abuse, the local department and the appropriate law enforcement agency, if that agency
 32 participated in the investigation, shall make a complete written report of its findings to
 33 the local State's Attorney.

34 (2) WITHIN 5 BUSINESS DAYS AFTER COMPLETION OF ANY
 35 SUPPLEMENTAL REPORT CONCERNING AN INVESTIGATION OF SUSPECTED ABUSE,
 36 THE LOCAL DEPARTMENT SHALL DISCLOSE THE REPORT TO THE LOCAL STATE'S
 37 ATTORNEY.

38 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 39 October 1, 1997.