

SENATE BILL 473

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CF 3lr1405

By: **Senator Jones–Rodwell (By Request – Baltimore City Administration)**

Introduced and read first time: January 30, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Children – Records Access**

3 FOR the purpose of authorizing access to certain court records and police records by
4 the Baltimore City Health Department and the Baltimore City Mayor’s Office
5 on Criminal Justice under certain circumstances; requiring that certain records
6 concerning child abuse and neglect be disclosed to the Baltimore City Health
7 Department under certain circumstances; requiring the Department of Juvenile
8 Services to disclose to the Baltimore City Health Department certain records
9 concerning certain children under certain circumstances; requiring the
10 Department of State Police to provide to the Baltimore City Health Department
11 and the Baltimore City Mayor’s Office on Criminal Justice certain information
12 concerning certain children under certain circumstances; requiring the
13 Baltimore City Health Department and the Baltimore City Mayor’s Office on
14 Criminal Justice to keep certain information confidential; authorizing the
15 Baltimore City Health Department and the Baltimore City Mayor’s Office on
16 Criminal Justice to use certain information solely for certain purposes;
17 providing for the termination of this Act; and generally relating to records
18 concerning children and access by the Baltimore City Health Department and
19 the Baltimore City Mayor’s Office on Criminal Justice.

20 BY repealing and reenacting, with amendments,
21 Article – Courts and Judicial Proceedings
22 Section 3–827(a) and 3–8A–27
23 Annotated Code of Maryland
24 (2006 Replacement Volume and 2012 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Human Services
27 Section 1–202(b) and (c)(1)(v)
28 Annotated Code of Maryland
29 (2007 Volume and 2012 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Human Services
3 Section 9–219(f)
4 Annotated Code of Maryland
5 (2007 Volume and 2012 Supplement)

6 BY adding to
7 Article – Public Safety
8 Section 2–308(d)
9 Annotated Code of Maryland
10 (2011 Replacement Volume and 2012 Supplement)

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

13 **Article – Courts and Judicial Proceedings**

14 3–827.

15 (a) (1) All court records under this subtitle pertaining to a child shall be
16 confidential and their contents may not be divulged, by subpoena or otherwise, except
17 by order of the court on good cause shown.

18 (2) This subsection does not prohibit review of a court record by:

19 (i) Personnel of the court;

20 (ii) A party;

21 (iii) Counsel for a party;

22 (iv) A Court–Appointed Special Advocate for the child; [or]

23 (v) Authorized personnel of the Social Services Administration
24 and local departments in order to conduct a child abuse or neglect investigation or to
25 comply with requirements imposed under Title IV–E of the Social Security Act;

26 **(VI) THE BALTIMORE CITY HEALTH DEPARTMENT:**

27 **1. IF THE BALTIMORE CITY HEALTH DEPARTMENT**
28 **IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE**
29 **RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR**
30 **CARE;**

1 **2. IF THE RECORD CONCERNS A CHILD CONVICTED**
2 **OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH**
3 **OR NEAR FATALITY; OR**

4 **3. IF THE RECORD CONCERNS A VICTIM OF, OR A**
5 **CHILD ADJUDICATED DELINQUENT FOR, A CRIME OF VIOLENCE, AS DEFINED IN**
6 **§ 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN**
7 **BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE**
8 **PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN**
9 **IN BALTIMORE CITY; OR**

10 **(VII) THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL**
11 **JUSTICE IF THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IS**
12 **PROVIDING PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF THE**
13 **RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS**
14 **AND SERVICES.**

15 (3) Information obtained from a court record is subject to the
16 provisions of §§ 1-201, 1-202, 1-204, and 1-205 of the Human Services Article.

17 3-8A-27.

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

22 (2) This subsection does not prohibit:

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

26 **(II) ACCESS TO AND CONFIDENTIAL USE OF THE RECORD BY**
27 **THE BALTIMORE CITY HEALTH DEPARTMENT:**

28 **1. IF THE BALTIMORE CITY HEALTH DEPARTMENT**
29 **IS PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE**
30 **RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR**
31 **CARE;**

32 **2. IF THE RECORD CONCERNS A CHILD CONVICTED**
33 **OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH**
34 **OR NEAR FATALITY; OR**

1 **3. IF THE RECORD CONCERNS A VICTIM OF, OR A**
2 **CHILD ADJUDICATED DELINQUENT FOR, A CRIME OF VIOLENCE, AS DEFINED IN**
3 **§ 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN**
4 **BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE**
5 **PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST CHILDREN**
6 **IN BALTIMORE CITY;**

7 **(iii) ACCESS TO AND CONFIDENTIAL USE OF THE RECORD BY**
8 **THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IF THE**
9 **BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE IS PROVIDING**
10 **PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF THE RECORD,**
11 **FOR A PURPOSE RELEVANT TO THE PROVISION OF THE PROGRAMS AND**
12 **SERVICES AND THE DEVELOPMENT OF A COMPREHENSIVE TREATMENT PLAN;**

13 **[(ii)] (iv)** A law enforcement agency of the State or of a political
14 subdivision of the State, the Department of Juvenile Services, or the criminal justice
15 information system from including in the law enforcement computer information
16 system information about an outstanding juvenile court ordered writ of attachment,
17 for the sole purpose of apprehending a child named in the writ; or

18 **[(iii)] (v)** A law enforcement agency of the State or of a political
19 subdivision of the State from releasing to the public photographs and identifying
20 information of a child who has escaped from a detention center for juveniles or a
21 secure residential facility for juveniles, for the purposes of facilitating apprehension of
22 the child and ensuring public safety.

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

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

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

36 (ii) The court record or fingerprints of a child described under §§
37 10-215(a)(20) and (21), 10-216, and 10-220 of the Criminal Procedure Article may not
38 be disclosed to:

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

3 2. Any law enforcement agency other than a law
4 enforcement agency of the State or a political subdivision of the State.

5 (4) (i) The Department of Juvenile Services may provide access to
6 and the confidential use of a treatment plan of a child described under Title 10,
7 Subtitle 2 of the Criminal Procedure Article by an agency in the District of Columbia
8 or a state agency in Virginia, if the agency:

9 1. Performs the same functions in the jurisdiction of the
10 agency as described in § 9–216(a) of the Human Services Article;

11 2. Has a reciprocal agreement with the State that
12 provides that the specific information to be shared by the State is the same type of
13 information that will be shared by the agency; and

14 3. Has custody of the child.

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

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

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

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

26 1. The individual who is the subject of the court record is
27 charged as an adult with an offense;

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

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

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

3 (6) (i) This subsection does not prohibit access to and confidential
4 use of a court record by the Department of Human Resources for the purpose of
5 claiming federal Title IV–E funds.

6 (ii) The Department of Human Resources shall be liable for the
7 unauthorized release of a court record under this paragraph.

8 **(7) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
9 **CONFIDENTIAL USE OF A COURT RECORD BY THE BALTIMORE CITY HEALTH**
10 **DEPARTMENT:**

11 **(I) IF THE BALTIMORE CITY HEALTH DEPARTMENT IS**
12 **PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE**
13 **RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR**
14 **CARE;**

15 **(II) IF THE RECORD CONCERNS A CHILD CONVICTED OF A**
16 **CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR**
17 **NEAR FATALITY; OR**

18 **(III) IF THE RECORD CONCERNS A VICTIM OF A CRIME OF**
19 **VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE, WHO IS A**
20 **CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING**
21 **APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE**
22 **AGAINST CHILDREN IN BALTIMORE CITY.**

23 **(8) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
24 **CONFIDENTIAL USE OF A COURT RECORD BY THE BALTIMORE CITY MAYOR’S**
25 **OFFICE ON CRIMINAL JUSTICE IF THE BALTIMORE CITY MAYOR’S OFFICE ON**
26 **CRIMINAL JUSTICE IS PROVIDING PROGRAMS AND SERVICES IN CONJUNCTION**
27 **WITH THE BALTIMORE POLICE DEPARTMENT TO A CHILD WHO IS THE SUBJECT**
28 **OF THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE**
29 **PROGRAMS AND SERVICES AND THE DEVELOPMENT OF A COMPREHENSIVE**
30 **TREATMENT PLAN.**

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

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

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

11 (f) Subject to the provisions of §§ 9–219 and 9–220 of the Human Services
12 Article, this section does not prohibit access to or use of any juvenile record for
13 criminal justice research purposes. A record used under this subsection may not
14 contain the name of the individual to whom the record pertains, or any other
15 identifying information which could reveal the individual's name.

16 (g) This section does not prohibit a victim or victim's representative who has
17 filed a notification request form from being notified of proceedings and events
18 involving the defendant or child as provided in this subtitle, the Criminal Procedure
19 Article, or the Criminal Law Article.

20 (h) This section does not prohibit the Department of Public Safety and
21 Correctional Services or a supervising authority, as defined in § 11–701 of the
22 Criminal Procedure Article, from accessing or using the part of a juvenile record that
23 identifies an offense committed by a juvenile for purposes of complying with Title 11,
24 Subtitle 7 of the Criminal Procedure Article.

25 Article – Human Services

26 1–202.

27 (b) A report or record concerning child abuse or neglect shall be disclosed:

28 (1) under a court order;

29 (2) under an order of an administrative law judge, if:

30 (i) the request for disclosure concerns a case pending before the
31 Office of Administrative Hearings; and

32 (ii) provisions are made to comply with other State or federal
33 confidentiality laws and to protect the identity of the reporter or other person whose
34 life or safety is likely to be endangered by the disclosure; [or]

1 (3) to the Division of Parole and Probation in the Department of Public
2 Safety and Correctional Services if, as a result of a report or investigation of suspected
3 child abuse or neglect, the local department of social services has reason to believe
4 that an individual who lives in or has a regular presence in a child's home is registered
5 under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission
6 of an offense against a child; OR

7 (4) ON A WRITTEN REQUEST, TO THE BALTIMORE CITY HEALTH
8 DEPARTMENT:

9 (I) IF THE BALTIMORE CITY HEALTH DEPARTMENT IS
10 PROVIDING TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A
11 REPORT OF CHILD ABUSE OR NEGLECT, FOR A PURPOSE RELEVANT TO THE
12 PROVISION OF THE TREATMENT OR CARE;

13 (II) IF THE RECORD OR REPORT CONCERNS A CHILD
14 CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT THAT
15 CAUSED A DEATH OR NEAR FATALITY; OR

16 (III) IF THE RECORD OR REPORT CONCERNS A VICTIM OF A
17 CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,
18 WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF
19 DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING
20 VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

21 (c) A report or record concerning child abuse or neglect:

22 (1) may be disclosed on request to:

23 (v) SUBJECT TO THE PROVISIONS OF SUBSECTION (B)(4) OF
24 THIS SECTION, a licensed practitioner who, or an agency, institution, or program that,
25 is providing treatment or care to a child who is the subject of a report of child abuse or
26 neglect for a purpose relevant to the treatment or care;

27 9-219.

28 (F) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
29 DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH
30 DEPARTMENT, ON A WRITTEN REQUEST:

31 (I) A CONFIDENTIAL RESEARCH RECORD CONCERNING A
32 CHILD TO WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING
33 TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE
34 TREATMENT OR CARE;

1 (II) A CONFIDENTIAL RESEARCH RECORD CONCERNING A
2 CHILD CONVICTED OF A CRIME OR ADJUDICATED DELINQUENT FOR AN ACT
3 THAT CAUSED A DEATH OR NEAR FATALITY; OR

4 (III) A CONFIDENTIAL RESEARCH RECORD CONCERNING A
5 VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL
6 LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE
7 PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT
8 REDUCING VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

9 (2) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP
10 CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION.

12 Article – Public Safety

13 2-308.

14 (D) (1) THE DEPARTMENT SHALL PROVIDE TO THE BALTIMORE CITY
15 HEALTH DEPARTMENT AND THE BALTIMORE CITY MAYOR'S OFFICE ON
16 CRIMINAL JUSTICE, ON A WRITTEN REQUEST, INFORMATION CONCERNING:

17 (I) A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN §
18 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN
19 BALTIMORE CITY; AND

20 (II) A CHILD CONVICTED OF A CRIME OR ADJUDICATED
21 DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY.

22 (2) THE BALTIMORE CITY HEALTH DEPARTMENT:

23 (I) SHALL KEEP CONFIDENTIAL ANY INFORMATION
24 PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

25 (II) MAY USE THE INFORMATION SOLELY TO DEVELOP
26 APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE
27 AGAINST CHILDREN IN BALTIMORE CITY.

28 (3) THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL
29 JUSTICE:

30 (I) SHALL KEEP CONFIDENTIAL ANY INFORMATION
31 PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

1 **(II) MAY USE THE INFORMATION SOLELY TO DEVELOP**
2 **APPROPRIATE PROGRAMS AND SERVICES TO A CHILD WHO IS THE SUBJECT OF**
3 **THE RECORD, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE**
4 **PROGRAMS AND SERVICES.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2013. It shall remain effective for a period of 6 years and, at the end of
7 September 30, 2019, with no further action required by the General Assembly, this Act
8 shall be abrogated and of no further force and effect.