

SENATE BILL 623

E3

9lr2549

By: **Senator Carter**

Introduced and read first time: February 4, 2019

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law – Police and Court Records – Access by Counsel**

3 FOR the purpose of establishing that certain provisions of law relating to the confidentiality
4 of police records concerning a child do not prohibit access to and use of the police
5 record of a certain child by counsel for the child at each stage of a certain legal
6 proceeding against the child; establishing that certain provisions of law relating to
7 the confidentiality of court records concerning a child do not prohibit access to and
8 use of the court record or fingerprints of a certain child by counsel for the child at
9 each stage of a certain legal proceeding against the child; making certain conforming
10 changes; and generally relating to the confidentiality of juvenile records.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–8A–27(a) and (b)
14 Annotated Code of Maryland
15 (2013 Replacement Volume and 2018 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 (a) (1) A police record concerning a child is confidential and shall be
21 maintained separate from those of adults. Its contents may not be divulged, by subpoena
22 or otherwise, except by order of the court upon good cause shown or as otherwise provided
23 in § 7–303 of the Education Article.

24 (2) This subsection does not prohibit:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 (ii) Access to and confidential use of the record by the Baltimore City
5 Health Department's Office of Youth Violence Prevention:

6 1. 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 2. If the record concerns a child convicted of a crime or
10 adjudicated delinquent for an act that caused a death or near fatality; or

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

15 (iii) Access to and confidential use of the record by the Baltimore City
16 Mayor's Office on Criminal Justice if the Baltimore City Mayor's Office on Criminal Justice
17 is providing programs and services to a child who is the subject of the record, for a purpose
18 relevant to the provision of the programs and services and the development of a
19 comprehensive treatment plan;

20 (iv) A law enforcement agency of the State or of a political subdivision
21 of the State, the Department of Juvenile Services, or the criminal justice information
22 system from including in the law enforcement computer information system information
23 about an outstanding juvenile court ordered writ of attachment, for the sole purpose of
24 apprehending a child named in the writ; [or]

25 (v) A law enforcement agency of the State or of a political subdivision
26 of the State from releasing to the public photographs and identifying information of a child
27 who has escaped from a detention center for juveniles or a secure residential facility for
28 juveniles, for the purposes of facilitating apprehension of the child and ensuring public
29 safety; OR

30 **(VI) ACCESS TO AND USE OF THE RECORD BY COUNSEL FOR THE**
31 **CHILD AT EACH STAGE OF A PROCEEDING UNDER THIS SUBTITLE.**

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

35 (2) This subsection does not prohibit access to and the use of the court
36 record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal
37 Procedure Article in a proceeding in the court involving the child, by personnel of the court,

1 the State's Attorney, [counsel for the child,] a court-appointed special advocate for the
2 child, or authorized personnel of the Department of Juvenile Services.

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

8 (ii) The court record or fingerprints of a child described under §§
9 10-215(a)(20) and (21), 10-216, and 10-220 of the Criminal Procedure Article may not be
10 disclosed to:

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

12 2. Any law enforcement agency other than a law enforcement
13 agency of the State or a political subdivision of the State.

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

17 1. Performs the same functions in the jurisdiction of the
18 agency as described in § 9-216(a) of the Human Services Article; and

19 2. Has a reciprocal agreement with the State that provides
20 that the specific information to be shared by the State is the same type of information that
21 will be shared by the agency.

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

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

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

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

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

34 2. The access to and use of the court record is strictly limited

1 for the purpose of determining the defendant's eligibility for pretrial release; and

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

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

6 (6) (i) This subsection does not prohibit access to and confidential use
7 of a court record by the Department of Human Services or a local department of social
8 services for:

9 1. The purpose of claiming federal Title IV–B and Title IV–E
10 funds; or

11 2. If the Department of Human Services or a local
12 department of social services is providing services or care in coordination with the
13 Department of Juvenile Services to a child who is the subject of the record, a purpose
14 relevant to the provision of the services or care.

15 (ii) The Department of Human Services and local departments of
16 social services shall keep a court record obtained under this paragraph confidential in
17 accordance with the laws and policies applicable to the Department of Human Services and
18 local departments of social services.

19 (7) (i) This subsection does not prohibit access to and confidential use
20 of a court record by the Maryland Department of Health or a local health department if the
21 Maryland Department of Health or a local health department is providing treatment,
22 services, or care in coordination with the Department of Juvenile Services to a child who is
23 the subject of the record, for a purpose relevant to the provision of the treatment, services,
24 or care.

25 (ii) The Maryland Department of Health and local health
26 departments shall keep a court record obtained under this paragraph confidential in
27 accordance with the laws and policies applicable to the Maryland Department of Health
28 and local health departments.

29 (8) This subsection does not prohibit access to and confidential use of a
30 court record by the Baltimore City Health Department's Office of Youth Violence
31 Prevention:

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

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

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

5 (9) This subsection does not prohibit access to and confidential use of a
6 court record by the Baltimore City Mayor’s Office on Criminal Justice if the Baltimore City
7 Mayor’s Office on Criminal Justice is providing programs and services in conjunction with
8 the Baltimore Police Department to a child who is the subject of the record, for a purpose
9 relevant to the provision of the programs and services and the development of a
10 comprehensive treatment plan.

11 (10) (i) The Baltimore City Health Department’s Office of Youth
12 Violence Prevention or the Baltimore City Mayor’s Office on Criminal Justice shall be liable
13 for the unauthorized release of a court record it accesses under this subsection.

14 (ii) Within 180 days after the Baltimore City Health Department’s
15 Office of Youth Violence Prevention or the Baltimore City Mayor’s Office on Criminal
16 Justice accesses a court record under this subsection, the Baltimore City Health
17 Department’s Office of Youth Violence Prevention or the Baltimore City Mayor’s Office on
18 Criminal Justice shall submit a report to the court detailing the purposes for which the
19 record was used.

20 **(11) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND USE OF A**
21 **COURT RECORD OR FINGERPRINTS OF A CHILD BY COUNSEL FOR THE CHILD AT**
22 **EACH STAGE OF A PROCEEDING UNDER THIS SUBTITLE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2019.