

SENATE BILL 985

E3

9lr3229

By: **Senators Hayes, Carter, Ferguson, and Washington**

Introduced and read first time: February 18, 2019

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 22, 2019

Committee Report: Favorable

Senate action: Adopted

Read second time: March 20, 2019

CHAPTER _____

1 AN ACT concerning

2 **Confidentiality of Juvenile Records – Baltimore City Mayor’s Office on Criminal**
3 **Justice**

4 FOR the purpose of establishing that certain provisions of law relating to the confidentiality
5 of juvenile police records and court records do not prohibit access to and confidential
6 use of certain records by the Baltimore City Mayor’s Office on Criminal Justice under
7 certain circumstances; specifying that the Baltimore City Mayor’s Office on Criminal
8 Justice shall be liable for the unauthorized release of a certain record; making this
9 Act subject to a certain contingency; providing for the termination of this Act subject
10 to a certain contingency; providing for the effective date; and generally relating to
11 juvenile records and access by the Baltimore City Mayor’s Office on Criminal Justice.

12 BY repealing and reenacting, with amendments,
13 Article – Courts and Judicial Proceedings
14 Section 3–8A–27
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2018 Supplement)
17 (As enacted by Chapter 474 of the Acts of the General Assembly of 2013)

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

20 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 3-8A-27.

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

6 (2) This subsection does not prohibit:

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

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

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

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

26 **(3) THE BALTIMORE CITY MAYOR'S OFFICE ON CRIMINAL JUSTICE**
27 **SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A POLICE RECORD IT**
28 **ACCESSES UNDER THIS SUBSECTION.**

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

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

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

6 (ii) The court record or fingerprints of a child described under §§
7 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be
8 disclosed to:

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

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

- 15 1. Performs the same functions in the jurisdiction of the
16 agency as described in § 9–216(a) of the Human Services Article; and
17 2. Has a reciprocal agreement with the State that provides
18 that the specific information to be shared by the State is the same type of information that
19 will be shared by the agency.

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

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

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

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

- 30 1. The individual who is the subject of the court record is
31 charged as an adult with an offense;
32 2. The access to and use of the court record is strictly limited
33 for the purpose of determining the defendant’s eligibility for pretrial release; and
34 3. The court record concerns an adjudication of delinquency

1 that occurred within 3 years of the date the individual is charged as an adult.

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

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

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

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

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

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

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

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

35 **(9) THE BALTIMORE CITY MAYOR’S OFFICE ON CRIMINAL JUSTICE**
36 **SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A COURT RECORD IT**
37 **ACCESSES UNDER THIS SUBSECTION.**

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 order
3 them sealed after the child has reached 21 years of age. If sealed, the court records of a
4 child may not be opened, for any purpose, except by order of the court upon good cause
5 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 is
10 carrying out any of its statutory duties, if the record concerns a charge or adjudication of
11 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 the
15 Division; and (2) the record concerns an adjudication of delinquency.

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

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

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on
31 the taking effect of the termination provision specified in Section 2 of Chapter 474 of the
32 Acts of the General Assembly of 2013. This Act may not be interpreted to have any effect
33 on that termination provision.

34 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of
35 Section 2 of this Act, this Act shall take effect September 1, 2019. It shall remain effective
36 for a period of 6 years and 1 month and, at the end of September 30, 2025, with no further
37 action required by the General Assembly, this Act shall be abrogated and of no further force
38 and effect.