

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 53

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in its entirety line 2 and substitute "Juvenile Records - Use by Local Pretrial and Correctional Agencies"; strike beginning with "that" in line 3 down through "circumstances" in line 8 and substitute "access to and use of juvenile records by a local pretrial agency under certain conditions; providing access to and use of juvenile records by a local correctional agency; making technical changes; providing that an adjudication and disposition of a child is admissible in court under certain conditions; and generally relating to juvenile records"; and strike in their entirety lines 9 through 18, inclusive, and substitute:

"BY repealing and reenacting, without amendments,

Article - Courts and Judicial Proceedings

Section 3-824(b)

Annotated Code of Maryland

(1995 Replacement Volume and 1996 Supplement)

BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 3-824(c) and (d) and 3-828

Annotated Code of Maryland

(1995 Replacement Volume and 1996 Supplement)".

AMENDMENT NO. 2

On page 2, strike in their entirety lines 2 through 21, inclusive, and substitute:

"3-824.

(b) An adjudication and disposition of a child pursuant to this subtitle are not admissible as evidence against

(Over)

the child:

(1) In any criminal proceeding prior to conviction; or

(2) In any adjudicatory hearing on a petition alleging delinquency; or

(3) In any civil proceeding not conducted under this subtitle.

(c) AN ADJUDICATION AND DISPOSITION OF A CHILD PURSUANT TO THIS SUBTITLE IS ADMISSIBLE IN A COURT OF COMPETENT JURISDICTION WHEN A LOCAL PRETRIAL AGENCY IS MAKING RECOMMENDATIONS TO THE COURT FOR THE PURPOSE OF DETERMINING PRETRIAL RELEASE.

(D) Evidence given in a proceeding under this subtitle is not admissible against the child in any other proceeding in another court, except in a criminal proceeding where the child is charged with perjury and the evidence is relevant to that charge and is otherwise admissible.

[(d)] (E) An adjudication or disposition of a child under this subtitle shall not disqualify the child with respect to employment in the civil service of the State or any subdivision of the State.

3-828.

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

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

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under the Criminal Justice Information System subtitle of Article 27 of the Code in a proceeding in the court involving the child, by personnel of the court, the State's Attorney, counsel for the child, a court-appointed special advocate for the child, or authorized personnel of the Department of Juvenile Justice, or, in a proceeding involving a child alleged to be in need of assistance, by authorized personnel of the Social Services Administration and local departments of

social services of the Department of Human Resources in order to conduct a child abuse or neglect investigation or to comply with requirements imposed under Title IV-E of the Social Security Act.

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

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

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

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

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

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

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

(E) THIS SECTION DOES NOT PROHIBIT ACCESS TO AND USE OF ANY JUVENILE RECORD BY A LOCAL PRETRIAL AGENCY IN THE PREPARATION OF:

(Over)

(1) RECOMMENDATIONS TO A COURT OF COMPETENT JURISDICTION FOR A COURT HEARING FOR THE PURPOSE OF DETERMINING PRETRIAL RELEASE; OR

(2) THE ASSESSMENT OF THE INDIVIDUAL FOR COMMUNITY SUPERVISION.

[(e)] (F) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction OR ANY LOCAL CORRECTIONAL AGENCY when the Division OR THE LOCAL CORRECTIONAL AGENCY is carrying out any of its statutory duties, INCLUDING THE ASSESSMENT AND CLASSIFICATION OF INDIVIDUALS, if: (1) the individual to whom the record pertains is committed to the custody of the Division OR THE LOCAL CORRECTIONAL AGENCY, INCLUDING THE ASSESSMENT AND CLASSIFICATION OF INDIVIDUALS; and (2) the record concerns an adjudication of delinquency.

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