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SB 200/96 - JPR

1997 Regular Session
7r1685
CF SB 125

By: Delegates Preis, Harkins, Fry, Bonsack, and Dembrow

Introduced and read first time: January 23, 1997

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Records - Use by Local Pretrial and Correctional Agencies**

3 FOR the purpose of providing access to and use of juvenile records by a local pretrial
4 agency under certain conditions; providing access to and use of juvenile records by
5 a local correctional agency; making technical changes; providing that an
6 adjudication and disposition of a child is admissible in court under certain
7 conditions; and generally relating to juvenile records.

8 BY repealing and reenacting, without amendments,
9 Article - Courts and Judicial Proceedings
10 Section 3-824(b)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1996 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 3-824(c) and (d) and 3-828
16 Annotated Code of Maryland
17 (1995 Replacement Volume and 1996 Supplement)

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

20 **Article - Courts and Judicial Proceedings**

21 3-824.

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

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

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

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

27 (c) AN ADJUDICATION AND DISPOSITION OF A CHILD PURSUANT TO THIS
28 SUBTITLE IS ADMISSIBLE IN A COURT OF COMPETENT JURISDICTION WHEN A LOCAL

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1 PRETRIAL AGENCY IS MAKING RECOMMENDATIONS TO THE COURT FOR THE
2 PURPOSE OF DETERMINING PRETRIAL RELEASE.

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

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

10 3-828.

11 (a) A police record concerning a child is confidential and shall be maintained
12 separate from those of adults. Its contents may not be divulged, by subpoena or otherwise,
13 except by order of the court upon good cause shown or as otherwise provided in § 7-302.1
14 of the Education Article. This subsection does not prohibit access to and confidential use
15 of the record by the Department of Juvenile Justice or in the investigation and
16 prosecution of the child by any law enforcement agency.

17 (b) (1) A court record pertaining to a child is confidential and its contents may
18 not be divulged, by subpoena or otherwise, except by order of the court upon good cause
19 shown or as provided in § 7-302.1 of the Education Article.

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

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

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

38 (ii) The court record or fingerprints of a child described under Article
39 27, §§ 747(a)(21) and 747A of the Code may not be disclosed to:

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

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

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

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

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

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

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

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

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

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