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SB 200/96 - JPR

By: Senator Forehand

Introduced and read first time: January 9, 1997

Assigned to: Judicial Proceedings

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 admissable 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.

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- 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.
- (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.
- 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:
 - 1. A federal criminal justice agency or information center; or

- 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.
- zo deliniquency.
- 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.