
By: **Delegate Bissett**
Introduced and read first time: February 13, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Jurisdiction - Records**

3 FOR the purpose of altering the original jurisdiction of the juvenile court; providing
4 that the juvenile court's jurisdiction terminates under certain circumstances;
5 modifying the requirements for the confidentiality of certain juvenile records;
6 making an adjudication of delinquency a reportable event for the purpose of the
7 Criminal Justice Information System under certain circumstances; allowing
8 certain law enforcement agencies to obtain certain juvenile records; and
9 generally relating to the jurisdiction of the juvenile court and the juvenile justice
10 system.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 747 and 747A
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1997 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Courts and Judicial Proceedings
18 Section 3-804, 3-806, and 3-828(b)
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1997 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article - Courts and Judicial Proceedings
23 Section 3-828(a)
24 Annotated Code of Maryland
25 (1995 Replacement Volume and 1997 Supplement)

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

Article 27 - Crimes and Punishments1
2 747.

3 (a) The following events are reportable events under this subtitle:

4 (1) Issuance or withdrawal of an arrest warrant;

5 (2) An arrest;

6 (3) Release of a person after arrest without the filing of a charge;

7 (4) Presentment of an indictment, filing of a criminal information, or
8 filing of a statement of charges after arrest;

9 (5) A release pending trial or appeal;

10 (6) Commitment to a place of pretrial detention;

11 (7) Dismissal or quashing of an indictment or criminal information;

12 (8) A nolle prosequi;

13 (9) Placement of a charge on the stet docket;

14 (10) An acquittal, conviction, verdict of not criminally responsible, or
15 other disposition at or following trial, including a finding of probation before
16 judgment;

17 (11) Imposition of a sentence;

18 (12) Commitment to a correctional facility, whether State or locally
19 operated;20 (13) Commitment to the Department of Health and Mental Hygiene
21 under § 12-105 or § 12-111 of the Health - General Article as incompetent to stand
22 trial or not criminally responsible;

23 (14) Release from detention or confinement;

24 (15) Conditional release, revocation of conditional release, or discharge of
25 an individual committed to the Department of Health and Mental Hygiene as
26 incompetent to stand trial or as not criminally responsible;

27 (16) An escape from confinement, or escape from commitment;

28 (17) A pardon, reprieve, commutation of sentence, or other change in a
29 sentence, including a change ordered by a court;

30 (18) Entry of an appeal to an appellate court;

1 (19) Judgment of an appellate court;

2 (20) Order of a court in a collateral proceeding that affects a person's
3 conviction, sentence, or confinement;

4 (21) An adjudication of a child as delinquent:

5 (i) If the child is at least 14 years old, for an act described in §
6 3-804(e)(1) of the Courts and Judicial Proceedings Article; [and]

7 (ii) If the child is at least [16] 15 years old, for an act described in
8 § 3-804(e)(4) or (5) of the Courts and Judicial Proceedings Article; and

9 (III) FOR AN ACT THAT CONSTITUTES A SECOND OR SUBSEQUENT
10 OFFENSE THAT, IF COMMITTED BY AN ADULT, WOULD CONSTITUTE A FELONY
11 UNDER FEDERAL OR STATE LAW, REGARDLESS OF THE AGE OF THE CHILD; AND

12 (22) Any other event arising out of or occurring during the course of
13 criminal justice proceedings declared to be reportable by rule or regulation of the
14 Secretary or the Court of Appeals.

15 (b) (1) There is a criminal justice information system central repository in
16 the Department of Public Safety and Correctional Services.

17 (2) The repository is under the administrative control of the Secretary
18 and shall be operated as directed by the Secretary with the advice of the Advisory
19 Board.

20 (c) Every criminal justice agency shall report criminal history record
21 information, whether collected manually or by means of an automated system, to the
22 central repository, in accordance with the following provisions:

23 (1) Data pertaining to an arrest or the issuance of an arrest warrant
24 shall be reported within 72 hours after the arrest is made or the warrant is issued
25 whichever first occurs;

26 (2) Data pertaining to the release of a person after arrest without the
27 filing of a charge shall be reported within 30 days after the person is released;

28 (3) Data pertaining to any other reportable event shall be reported
29 within 60 days after occurrence of the event; and

30 (4) The time requirements in this subsection may be reduced by rules
31 adopted by the Secretary or the Court of Appeals.

32 (d) Reporting methods may include:

33 (1) Submittal of criminal history record information by a criminal justice
34 agency directly to the central repository;

1 (2) If the information can readily be collected and reported through the
2 court system, submittal to the central repository by the Administrative Office of the
3 Courts; or

4 (3) If the information can readily be collected and reported through
5 criminal justice agencies that are part of a geographically based information system,
6 submittal to the central repository by such agencies.

7 (e) Nothing in this section shall prevent a criminal justice agency from
8 maintaining more detailed information than is required to be reported to the central
9 repository. However, the dissemination of any such criminal history record
10 information is governed by the provisions of § 749.

11 (f) The Secretary and the Court of Appeals may determine, by rule, the
12 reportable events to be reported by each criminal justice agency, in order to avoid
13 duplication in reporting.

14 747A.

15 (a) In this section, "law enforcement agency" includes:

16 (1) A State, county, or municipal police department or agency; or

17 (2) A sheriff's office.

18 (b) (1) When a defendant is found guilty, or pleads guilty or nolo contendere
19 to an offense that is criminal history record information, as defined in § 743(e) of this
20 subtitle, and is sentenced to commitment in a local correctional facility, or receives a
21 suspended sentence, probation other than probation prior to judgment under § 641 of
22 this article, or a fine, and the defendant has not previously been fingerprinted as a
23 result of arrest for the sentenced offense, the judge imposing the sentence shall order
24 that the defendant be fingerprinted by the appropriate available law enforcement
25 agency.

26 (2) If the fingerprinting cannot be done immediately, the judge shall
27 order that the defendant report to the designated law enforcement agency for
28 fingerprinting within 3 days after sentencing.

29 (3) If a defendant fails to report as ordered under paragraph (2) of this
30 subsection, the defendant shall be in contempt of court.

31 (c) (1) This subsection applies only to an adjudication of delinquency for a
32 child:

33 (i) Who is at least 14 years old, for an act described in § 3-804(e)(1)
34 of the Courts and Judicial Proceedings Article; or

35 (ii) Who is at least [16] 15 years old, for an act described in §
36 3-804(e)(4) or (5) of the Courts and Judicial Proceedings Article.

1 (2) A child at least 16 years old alleged to have done an act in violation of
2 any provision of the Transportation Article or other traffic law or ordinance, except an
3 act that prescribes a penalty of incarceration;

4 (3) A child at least 16 years old alleged to have done an act in violation of
5 any provision of law, rule, or regulation governing the use or operation of a boat,
6 except an act that prescribes a penalty of incarceration; [or]

7 (4) A child at least [16] 15 years old alleged to have committed any of the
8 following crimes, as well as all other charges against the child arising out of the same
9 incident, unless an order removing the proceeding to the court has been filed under
10 Article 27, § 594A of the Code:

- 11 (i) Abduction;
- 12 (ii) Kidnapping;
- 13 (iii) Second degree murder;
- 14 (iv) Manslaughter, except involuntary manslaughter;
- 15 (v) Second degree rape;
- 16 (vi) Robbery with a dangerous or deadly weapon;
- 17 (vii) Second degree sexual offense in violation of Article 27, §
18 464A(a)(1) of the Code;
- 19 (viii) Third degree sexual offense in violation of Article 27, §
20 464B(a)(1) of the Code;
- 21 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
22 446, or § 481C of the Code;
- 23 (x) Using, wearing, carrying, or transporting of firearm during and
24 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 25 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 26 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
27 of the Code;
- 28 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
29 the Code;
- 30 (xiv) Attempted murder in the second degree in violation of Article
31 27, § 411A of the Code;
- 32 (xv) Attempted rape or attempted sexual offense in the second
33 degree under Article 27, § 464F of the Code; or

1 (xvi) Attempted robbery with a dangerous or deadly weapon under
2 Article 27, § 488 of the Code; OR

3 (5) A CHILD ALLEGED TO HAVE COMMITTED ANY CRIME WHO WAS
4 PREVIOUSLY CONVICTED OF ANY CRIME OTHER THAN:

5 (I) A VIOLATION OF THE TRANSPORTATION ARTICLE OR OTHER
6 TRAFFIC LAW OR ORDINANCE FOR WHICH A PENALTY OF INCARCERATION IS NOT
7 AUTHORIZED; OR

8 (II) A VIOLATION OF ANY LAW GOVERNING THE USE OR OPERATION
9 OF A BOAT FOR WHICH A PENALTY OF INCARCERATION IS NOT AUTHORIZED.

10 (f) If the child is charged with two or more violations of the Maryland Vehicle
11 Law, another traffic law or ordinance, or the State Boat Act, allegedly arising out of
12 the same incident and which would result in the child being brought before both the
13 court and a court exercising criminal jurisdiction, the court has exclusive jurisdiction
14 over all of the charges.

15 3-806.

16 (a) If the court obtains jurisdiction over a child, that jurisdiction continues
17 until that person reaches 21 years of age unless terminated sooner.

18 (b) This section does not affect the jurisdiction of other courts over a person
19 who commits an offense after he reaches the age of 18.

20 (c) Unless otherwise ordered by the court, the court's jurisdiction is
21 terminated over a person who has [reached 18 years of age when he is convicted of a
22 crime, including manslaughter by automobile, unauthorized use or occupancy of a
23 motor vehicle, or operating a vehicle while under the influence of intoxicating liquors
24 or drugs, but excluding a conviction for a violation of any other traffic law or
25 ordinance or any provision of the State Boat Act, or the fish and wildlife laws of the
26 State.] BEEN CONVICTED OF A CRIME OTHER THAN:

27 (1) A VIOLATION OF THE TRANSPORTATION ARTICLE OR OTHER TRAFFIC
28 LAW OR ORDINANCE FOR WHICH A PENALTY OF INCARCERATION IS NOT
29 AUTHORIZED;

30 (2) A VIOLATION OF ANY LAW GOVERNING THE USE OR OPERATION OF A
31 BOAT FOR WHICH A PENALTY OF INCARCERATION IS NOT AUTHORIZED; OR

32 (3) A VIOLATION OF THE FISH AND WILDLIFE LAWS OF THE STATE FOR
33 WHICH A PENALTY OF INCARCERATION IS NOT AUTHORIZED.

34 (d) If the court in a child in need of assistance proceeding places a child in the
35 care and custody of a person other than the parent, guardian, or custodian who had
36 custody at the time the petition is filed, the custody order of the court shall continue
37 after the termination of the child in need of assistance proceeding unless:

- 1 (1) The custody order is terminated by the court; or
- 2 (2) The custody order is modified by an order of any other court with
3 jurisdiction.
- 4 3-828.

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

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

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

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

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

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

- 34 1. A federal criminal justice agency or information center; or
- 35 2. Any law enforcement agency other than a law enforcement
36 agency of the State or a political subdivision of the State, UNLESS THE CHILD HAS
37 COMMITTED A CRIME THAT WOULD CONSTITUTE A FELONY UNDER FEDERAL OR
38 STATE LAW IF COMMITTED BY AN ADULT.

1 (5) (i) This subsection does not prohibit access to and use of a court
2 record by a judicial officer who is authorized under the Maryland Rules to determine
3 a defendant's eligibility for pretrial release, counsel for the defendant, or the State's
4 Attorney if:

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

7 2. The access to and use of the court record is strictly limited
8 for the purpose of determining the defendant's eligibility for pretrial release; and

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

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998.