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2001 Regular Session 1lr1339

By: Delegates Barve, Barkley, La Vay, and Stern Introduced and read first time: February 9, 2001 Assigned to: Judiciary A BILL ENTITLED 1 AN ACT concerning 2 Criminal Procedure - Offender Registry - Juvenile Delinquents 3 FOR the purpose of requiring a juvenile adjudicated delinquent for an act that would be a crime if committed by an adult to register on a certain offender registry 4 5 under certain circumstances; providing that certain confidentiality provisions 6 relating to juvenile records do not prohibit a juvenile from providing information for purposes of registering on a certain offender registry; and generally relating 7 8 to the registration of juveniles on an offender registry. 9 BY repealing and reenacting, with amendments, Article - Courts and Judicial Proceedings 10 11 Section 3-828 Annotated Code of Maryland 12 (1998 Replacement Volume and 2000 Supplement) 13 14 BY repealing and reenacting, with amendments, Article - Criminal Procedure 15 Section 11-702 16 17 Annotated Code of Maryland 18 (As enacted by Chapter ____(S.B. 1) of the Acts of the General Assembly of 2001) 19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 20 MARYLAND, That the Laws of Maryland read as follows: 21 **Article - Courts and Judicial Proceedings** 22 3-828. 23 A police record concerning a child is confidential and shall be (a) (1) 24 maintained separate from those of adults. Its contents may not be divulged, by 25 subpoena or otherwise, except by order of the court upon good cause shown or as 26 otherwise provided in § 7-303 of the Education Article.

This subsection does not prohibit:

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	(i) 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; or
6 7	(ii) A law enforcement agency of the State or of a political subdivision of the State or the criminal justice information system from including, in the law enforcement computer information system, information about an outstanding juvenile court ordered writ of attachment, for the sole purpose of apprehending a child named in the writ.
	(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.
14 15 16 17 18 19	(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.
27 28	(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.
30 31	(ii) The court record or fingerprints of a child described under Article 27, §§ 747(a)(21) and (22) and 747A of the Code may not be disclosed to:
32	1. A federal criminal justice agency or information center; or
33 34	2. Any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State.
37	(5) (i) This subsection does not prohibit access to and use of a court record by a judicial officer who is authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, or the State's Attorney if:
39 40	1. The individual who is the subject of the court record is charged as an adult with an offense;

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1 2	2. The access to and use of the court record is strictly limited for the purpose of determining the defendant's eligibility for pretrial release; and
3	3. The court record concerns an adjudication of delinquency that occurred within 3 years of the date the individual is charged as an adult.
5 6	(ii) The Court of Appeals may adopt rules to implement the provisions of this paragraph.
9 10	(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.
14 15 16	(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.
20	(e) This section does not prohibit access to and use of any juvenile record by the Maryland Division of Correction when the Division is carrying out any of its statutory duties if: (1) the individual to whom the record pertains is committed to the custody of the Division; and (2) the record concerns an adjudication of delinquency.
24 25	(f) 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.
	(g) This section does not prohibit a victim who has filed a notification request form from being notified of proceedings and events involving the defendant or child as provided in this article or Article 27 of the Code.
	(H) THIS SECTION DOES NOT PROHIBIT A JUVENILE FROM PROVIDING INFORMATION REQUIRED FOR REGISTRATION AS AN OFFENDER UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE ARTICLE.
33	Article - Criminal Procedure
34	11-702.
35	For the purposes of this subtitle, a person is convicted when the person:
36	(1) is found guilty of a crime by a jury or judicial officer;
37	(2) enters a plea of guilty or nolo contendere;

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- 1 (3) is granted a probation before judgment after a finding of guilt for a 2 crime if the court, as a condition of probation, orders compliance with the
- 3 requirements of this subtitle; [or]
- 4 (4) is found not criminally responsible for a crime; OR
- 5 (5) IS ADJUDICATED DELINQUENT FOR AN ACT THAT WOULD BE A 6 CRIME IF COMMITTED BY AN ADULT.
- 7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
- 8 October 1, 2001.