

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE**Revised**

Senate Bill 425

(Senator Jimeno, *et al.*)

Judicial Proceedings

Judiciary

Courts - Sharing Information Relating to Juveniles

This bill authorizes the sharing of confidential juvenile information among the Department of Juvenile Justice, local departments of social services, local management boards, State and local law enforcement agencies, State's Attorneys, and State and local school superintendents and their designees. Sharing of this information is permitted prior to adjudication for the purpose of increasing the ability of the juvenile justice system to assess, serve, and treat juvenile offenders and juveniles at risk of becoming offenders.

Fiscal Summary

State Effect: State agencies could establish agreements with existing resources.

Local Effect: Local agencies could establish agreements with existing resources.

Small Business Effect: None.

Analysis

Bill Summary: In order to effectuate the sharing of confidential juvenile information, this bill requires, within each county, the Department of Juvenile Justice, the local department of social services, the local management board, State and local law enforcement agencies, the State's Attorney, and the local school superintendent to enter into an interagency agreement. The agreement is required to include:

- (1) the conditions under which criminal and juvenile history information is to be made available to appropriate school personnel; and

- (2) the conditions under which school records are to be made available to the appropriate personnel of the local department of social services, the local management board, a State or local law enforcement agency, the State's Attorney, or the Department of Juvenile Justice.

The bill also requires the parties to an interagency agreement to further agree not to disclose any information to a person or agency that is not a part of the agreement, except as provided by State or federal law.

Current Law: A police or court record pertaining to a child is confidential and may not be divulged, by subpoena or otherwise, except by order of the court for good cause shown or as provided for in § 7-303 of the Education Article. Section 7-303 requires local law enforcement agencies and State's Attorneys to report to the local school superintendent the arrest of a child for specific reportable offenses, and the disposition of the reportable offense.

The law provides for a number of specific statutory exceptions to the general rule of confidentiality.

- (1) The Department of Juvenile Justice is allowed access to and confidential use of police records in the investigation and prosecution of a child by a law enforcement agency. Additionally, a law enforcement agency of the State or a political subdivision of the State, or the Criminal Justice Information System (CJIS), may include, 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.
- (2) Access to and confidential use of a court record or fingerprints of a child described under the Criminal Justice Information System (CJIS) is allowed in a proceeding in the juvenile 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. An adjudication of delinquency will cause a child to be described in CJIS if the child: (1) is at least 14 years old and has committed a crime that is punishable by death or life imprisonment; or (2) is at least 16 years old and has committed one or more violent crimes.

- (3) A judicial officer authorized under the Maryland Rules to determine a defendant's eligibility for pretrial release, counsel for the defendant, and the State's Attorney, may access a juvenile court record for the limited purpose of determining the defendant's eligibility for pretrial release.
- (4) Access to or use of any juvenile record is allowed: (i) by the Maryland Division of Parole and Probation or the Maryland Parole Commission when carrying out any of their statutory duties at the direction of a court; (ii) by the Maryland Parole Commission, if the record concerns a charge or adjudication of delinquency; (iii) by the Maryland Division of Correction when carrying out its statutory duties if the individual is committed to the custody of the division and the record concerns an adjudication of delinquency; and (iv) for criminal justice research purposes if all identifying information is deleted.

Additionally, a victim who has filed a notification request is entitled to be notified of proceedings and events involving the defendant or child.

Background: The Federal Family Educational Rights and Privacy Act (FERPA), which protects the privacy of education records, contains an exception that permits educators to share information with juvenile justice system agency officials on children who are at risk of involvement or have become involved in the juvenile justice system, prior to adjudication, to the extent state statute allows. Juvenile justice officials to whom the information is disclosed must certify in writing that they will not disclose personally identifiable information to any third party, except as provided by State law.

This bill goes beyond the juvenile justice system exception to FERPA by allowing sharing of confidential juvenile court records as well as school records pertaining to a juvenile.

The Department of Juvenile Justice currently has agreements with each of the 24 local boards of education to obtain and share school records.

A local management board is an interagency coordinating body that primarily has an advisory, planning, and referral role in the coordination of care to juveniles. Every county has a local management board.

Additional Information

Prior Introductions: HB 93 of 2001 received an unfavorable report from the House Judiciary Committee, and the cross file, SB 267 passed the Senate but received an

unfavorable report from the House Judiciary Committee. In 2000, this bill was introduced as HB 24 and was cross-filed as Senate Bill 344. House Bill 24 received an unfavorable report in the House Judiciary Committee. Senate Bill 344 received an unfavorable report in the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): State's Attorneys' Association, Department of Juvenile Justice, Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Department of Human Resources, Judiciary (Administrative Office of the Courts), Baltimore City, Department of Legislative Services

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