

HOUSE BILL 104

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2003 Regular Session
3r0575
CF 3r0557

By: **Delegate Hutchins**

Introduced and read first time: January 23, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Criminal Justice Information System**

3 FOR the purpose of altering the ex officio membership of the Criminal Justice
4 Information Advisory Board; designating the Director of the Maryland Justice
5 Analysis Center to serve as an ex officio member of the Advisory Board;
6 abolishing a certain distinction between members of the Advisory Board so as to
7 make each Advisory Board member a voting member; adding the failure of a
8 defendant to appear for a criminal justice proceeding as an event that must be
9 reported by a criminal justice unit to the Criminal Justice Information System
10 Central Repository; requiring a sentencing judge to order the fingerprinting of a
11 defendant under certain conditions for certain offenses and when granting
12 probation before judgment; allowing the Central Repository to disseminate
13 criminal history record information for other than criminal justice purposes
14 under certain circumstances; and generally relating to the Criminal Justice
15 Information System.

16 BY repealing and reenacting, with amendments,
17 Article - Criminal Procedure
18 Section 10-201(d)(2) and (f)(3), 10-208(e), 10-209(b), 10-215(a), 10-216,
19 10-219(a), and 10-220(b)
20 Annotated Code of Maryland
21 (2001 Volume and 2002 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article - Criminal Procedure
24 Section 10-221(b)(6)
25 Annotated Code of Maryland
26 (2001 Volume and 2002 Supplement)

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

1

Article - Criminal Procedure

2 10-201.

3 (d) (2) "Criminal history record information" includes:

4 (i) data from a unit that is required to report to the Central
5 Repository under Title 3 of this article;6 (ii) data about a person following waiver of jurisdiction by a
7 juvenile court; and8 (iii) data described under [§§ 10-215(a)(21) and (22)] §§
9 10-215(A)(22) AND (23) and 10-216 of this subtitle.10 (f) (3) Except as provided in [§§ 10-215(a)(21) and (22), 10-216(e),] §§
11 10-215(A)(22) AND (23), 10-216(D), and 10-220 of this subtitle, "criminal justice unit"
12 does not include:

13 (i) the Department of Juvenile Justice; or

14 (ii) a juvenile court.

15 10-208.

16 (e) (1) Except for the member of the Advisory Board from the public, each
17 member may designate a person to represent the member at any meeting or other
18 activity of the Advisory Board.19 (2) A person designated by a [voting] member under paragraph (1) of
20 this subsection may vote on behalf of the [voting] member.

21 10-209.

22 (b) [(1)] The Executive Director of the Governor's Office of Crime Control and
23 Prevention, the Attorney General, and [two of the members of the Advisory Board
24 that the Secretary recommends] THE DIRECTOR OF THE MARYLAND JUSTICE
25 ANALYSIS CENTER OF THE DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE
26 OF THE UNIVERSITY OF MARYLAND shall serve on the Advisory Board as ex officio
27 members.28 [(2)] From the persons the Secretary recommends to the Governor to serve
29 on the Advisory Board, the Secretary shall designate the voting member.]

30 10-215.

31 (a) The following events are reportable events under this subtitle that must be
32 reported to the Central Repository in accordance with § 10-214 of this subtitle:

33 (1) the issuance or withdrawal of an arrest warrant;

- 1 (2) an arrest;
- 2 (3) the release of a person after arrest without the filing of a charge;
- 3 (4) the filing of a charging document;
- 4 (5) a release pending trial or an appeal;
- 5 (6) a commitment to an institution of pretrial detention;
- 6 (7) the dismissal of an indictment or criminal information;
- 7 (8) a nolle prosequi;
- 8 (9) the marking of a charge "stet" on the docket;
- 9 (10) FAILURE OF A DEFENDANT TO APPEAR FOR TRIAL OR ANY OTHER
10 CRIMINAL JUSTICE PROCEEDING ARISING FROM A CRIMINAL CHARGE, INCLUDING A
11 PROBATION VIOLATION HEARING;
- 12 (11) an acquittal, conviction, verdict of not criminally responsible, or any
13 other disposition of a case at or following trial, including a finding of probation before
14 judgment;
- 15 [(11)] (12) the imposition of a sentence;
- 16 [(12)] (13) a commitment to a State correctional facility or local
17 correctional facility;
- 18 [(13)] (14) a commitment to the Department of Health and Mental
19 Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not
20 criminally responsible;
- 21 [(14)] (15) a release from detention or confinement;
- 22 [(15)] (16) a conditional release, revocation of conditional release, or
23 discharge of a person committed to the Department of Health and Mental Hygiene
24 under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally
25 responsible;
- 26 [(16)] (17) an escape from confinement or commitment;
- 27 [(17)] (18) a pardon, reprieve, commutation of a sentence, or other change
28 in a sentence, including a change in a sentence that a court orders;
- 29 [(18)] (19) an entry of an appeal to an appellate court;
- 30 [(19)] (20) a judgment of an appellate court;
- 31 [(20)] (21) an order of a court in a collateral proceeding that affects a
32 person's conviction, sentence, or confinement;

1 [(21)] (22) an adjudication of a child as delinquent:

2 (i) if the child is at least 14 years old, for an act described in §
3 3-8A-03(d)(1) of the Courts Article; or

4 (ii) if the child is at least 16 years old, for an act described in §
5 3-8A-03(d)(4) or (5) of the Courts Article;

6 [(22)] (23) the issuance or withdrawal of a writ of attachment by a
7 juvenile court; and

8 [(23)] (24) any other event arising out of or occurring during the course of
9 a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule
10 makes a reportable event.

11 10-216.

12 (a) In this section, "law enforcement unit" means:

13 (1) a State, county, or municipal police unit; or

14 (2) a sheriff's office.

15 (b) [Subject to subsection (c) of this section:]

16 (1) [if] IF a defendant was not fingerprinted at the time of arrest for the
17 sentenced crime, the sentencing judge shall order the defendant to be fingerprinted
18 by the appropriate and available law enforcement unit when the defendant:

19 (i) is found guilty or pleads guilty or nolo contendere to a crime
20 that is reportable as criminal history record information under this subtitle; and

21 (ii) is sentenced to commitment in a local correctional facility or
22 receives a suspended sentence, probation, [other than] probation before judgment
23 under § 6-220 of this article, or a fine[; and].

24 (2) [if] IF the defendant cannot be fingerprinted at the time of
25 sentencing, the sentencing judge shall order the defendant to report to a designated
26 law enforcement unit to be fingerprinted within 3 days after the date of the
27 sentencing.

28 (c) [If the crime charged is a crime defined by law or a rule of court as a "petty
29 offense", a sentencing judge may order that the defendant be fingerprinted under
30 subsection (b) of this section.

31 (d)] If a defendant fails to report to the designated law enforcement unit as
32 ordered under subsection (b)(2) of this section, the defendant is in contempt of court.

33 [(e)] (D) (1) This subsection only applies to an adjudication of delinquency of
34 a child:

1 (i) for an act described in § 3-8A-03(d)(1) of the Courts Article if
2 the child is at least 14 years old; or

3 (ii) for an act described in § 3-8A-03(d)(4) or (5) of the Courts
4 Article if the child is at least 16 years old.

5 (2) If a child has not been previously fingerprinted as a result of arrest
6 for the delinquent act, the court that held the disposition hearing of the child
7 adjudicated delinquent shall order the child to be fingerprinted by the appropriate
8 and available law enforcement unit.

9 (3) If the child cannot be fingerprinted at the time of the disposition
10 hearing held under paragraph (2) of this subsection, the court shall order the child to
11 report to a designated law enforcement unit to be fingerprinted within 3 days after
12 making a disposition on an adjudication of delinquency.

13 10-219.

14 (a) (1) Except in accordance with applicable federal law and regulations, a
15 criminal justice unit and the Central Repository may not disseminate criminal history
16 record information.

17 (2) EXCEPT AS PROVIDED BY AN AGREEMENT AUTHORIZED UNDER §
18 10-221(B)(6) OF THIS SUBTITLE, THE CENTRAL REPOSITORY MAY DISSEMINATE
19 CRIMINAL HISTORY RECORD INFORMATION FOR OTHER THAN CRIMINAL JUSTICE
20 PURPOSES ONLY ON SUBMISSION OF FINGERPRINTS BY THE SUBJECT OF THE
21 CRIMINAL HISTORY RECORDS CHECK.

22 10-220.

23 (b) Notwithstanding § 3-8A-27(a) of the Courts Article, criminal history
24 record information on a child and a record of the fingerprinting of a child required
25 under [§ 10-216(e)] § 10-216(D) of this subtitle need not be maintained separate from
26 such records on adults.

27 10-221.

28 (b) Subject to Title 3, Subtitle 4 of the State Finance and Procurement Article,
29 the regulations adopted by the Secretary under subsection (a)(1) of this section and
30 the rules adopted by the Court of Appeals under subsection (a)(2) of this section shall:

31 (6) regulate the development and content of agreements between the
32 Central Repository and criminal justice units and noncriminal justice units; and

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2003.