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By: **Delegate Hutchins**

Introduced and read first time: January 23, 2003

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2003

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CHAPTER \_\_\_\_\_

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

1 (2001 Volume and 2002 Supplement)

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

4 **Article - Criminal Procedure**

5 10-201.

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

7 (i) data from a unit that is required to report to the Central  
8 Repository under Title 3 of this article;

9 (ii) data about a person following waiver of jurisdiction by a  
10 juvenile court; and

11 (iii) data described under [§§ 10-215(a)(21) and (22)] §§  
12 10-215(A)(22) AND (23) and 10-216 of this subtitle.

13 (f) (3) Except as provided in [§§ 10-215(a)(21) and (22), 10-216(e),] §§  
14 10-215(A)(22) AND (23), 10-216(D), and 10-220 of this subtitle, "criminal justice unit"  
15 does not include:

16 (i) the Department of Juvenile Justice; or

17 (ii) a juvenile court.

18 10-208.

19 (e) (1) Except for the member of the Advisory Board from the public, each  
20 member may designate a person to represent the member at any meeting or other  
21 activity of the Advisory Board.

22 (2) A person designated by a [voting] member under paragraph (1) of  
23 this subsection may vote on behalf of the [voting] member.

24 10-209.

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

31 [(2) From the persons the Secretary recommends to the Governor to serve  
32 on the Advisory Board, the Secretary shall designate the voting member.]

1 40-215.

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

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

5 (2) an arrest;

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

7 (4) the filing of a charging document;

8 (5) a release pending trial or an appeal;

9 (6) a commitment to an institution of pretrial detention;

10 (7) the dismissal of an indictment or criminal information;

11 (8) a nolle prosequi;

12 (9) the marking of a charge "stet" on the docket;

13 (10) FAILURE OF A DEFENDANT TO APPEAR FOR TRIAL OR ANY OTHER  
14 CRIMINAL JUSTICE PROCEEDING ARISING FROM A CRIMINAL CHARGE, INCLUDING A  
15 PROBATION VIOLATION HEARING;

16 (11) an acquittal, conviction, verdict of not criminally responsible, or any  
17 other disposition of a case at or following trial, including a finding of probation before  
18 judgment;

19 ~~[(11)]~~ (12) the imposition of a sentence;

20 ~~[(12)]~~ (13) a commitment to a State correctional facility or local  
21 correctional facility;

22 ~~[(13)]~~ (14) a commitment to the Department of Health and Mental  
23 Hygiene under § 3-105 or § 3-111 of this article as incompetent to stand trial or not  
24 criminally responsible;

25 ~~[(14)]~~ (15) a release from detention or confinement;

26 ~~[(15)]~~ (16) a conditional release, revocation of conditional release, or  
27 discharge of a person committed to the Department of Health and Mental Hygiene  
28 under § 3-105 or § 3-111 of this article as incompetent to stand trial or not criminally  
29 responsible;

30 ~~[(16)]~~ (17) an escape from confinement or commitment;

31 ~~[(17)]~~ (18) a pardon, reprieve, commutation of a sentence, or other change  
32 in a sentence, including a change in a sentence that a court orders;

- 1           ~~[(18)]~~ (19)    an entry of an appeal to an appellate court;
- 2           ~~[(19)]~~ (20)    a judgment of an appellate court;
- 3           ~~[(20)]~~ (21)    an order of a court in a collateral proceeding that affects a  
4 person's conviction, sentence, or confinement;
- 5           ~~[(21)]~~ (22)    an adjudication of a child as delinquent:
- 6                       (i)    if the child is at least 14 years old, for an act described in §  
7 ~~3-8A-03(d)(1)~~ of the Courts Article; or
- 8                       (ii)   if the child is at least 16 years old, for an act described in §  
9 ~~3-8A-03(d)(4) or (5)~~ of the Courts Article;
- 10          ~~[(22)]~~ (23)    the issuance or withdrawal of a writ of attachment by a  
11 juvenile court; and
- 12          ~~[(23)]~~ (24)    any other event arising out of or occurring during the course of  
13 a criminal proceeding that the Secretary by regulation or the Court of Appeals by rule  
14 makes a reportable event.

15 10-216.

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

- 17 (1) a State, county, or municipal police unit; or
- 18 (2) a sheriff's office.

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

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

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

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

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

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

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

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

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

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

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

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

17 ~~10-219.~~

18 (a) ~~(1) Except in accordance with applicable federal law and regulations, a~~  
19 ~~criminal justice unit and the Central Repository may not disseminate criminal history~~  
20 ~~record information.~~

21 ~~(2) EXCEPT AS PROVIDED BY AN AGREEMENT AUTHORIZED UNDER §~~  
22 ~~10-221(B)(6) OF THIS SUBTITLE, THE CENTRAL REPOSITORY MAY DISSEMINATE~~  
23 ~~CRIMINAL HISTORY RECORD INFORMATION FOR OTHER THAN CRIMINAL JUSTICE~~  
24 ~~PURPOSES ONLY ON SUBMISSION OF FINGERPRINTS BY THE SUBJECT OF THE~~  
25 ~~CRIMINAL HISTORY RECORDS CHECK.~~

26 ~~10-220.~~

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

31 ~~10-221.~~

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

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

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