

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 488 (Senator Pipkin)
Judicial Proceedings

Juvenile Records - Confidentiality - Exception for Records of Sexual Offenses

This bill authorizes an employer at specified facilities dealing with children to access a part of an employee's or prospective employee's juvenile record if that part relates to a violation of sexual offense laws.

Fiscal Summary

State Effect: The bill would likely increase requests for copies of juvenile records, but it is anticipated that any increased workload could be handled with existing resources.

Local Effect: Minimal – see above.

Small Business Effect: Potential minimal. Certain small businesses could incur expenses relative to accessing juvenile records of employees and prospective employees.

Analysis

Bill Summary: The bill applies to the following types of facilities:

- a child care center, family day care center, child care home, or child care institution;
- a juvenile detention, correction, or treatment facility;
- a public, private, or nonpublic elementary or secondary school;
- a foster care family home or group facility; and

- a recreation center or program, or day or residential camp, that primarily serves minors.

Records that may be accessed include those relating to:

- first or second degree rape or attempted rape;
- first, second, third, or fourth degree sexual offense;
- attempted first or second degree sexual offense;
- sexual conduct between a correctional or juvenile justice employee and an inmate or confined child;
- sodomy;
- an unnatural or perverted sexual practice; or
- incest.

Current Law: Juvenile police and court records are confidential. Police and court records pertaining to a child may be divulged only:

- by court order upon good cause shown;
- to law enforcement agencies for investigative and prosecutorial purposes;
- to parole and probation personnel for official purposes;
- to the Division of Correction, if the child is committed to the custody of the division and the record concerns an adjudication of delinquency;
- for criminal justice research purposes; and
- to a victim or victim's representative under certain circumstances.

The contents of a police record additionally may be divulged:

- to the Department of Juvenile Justice for confidential use by that agency; and
- to law enforcement or the Criminal Justice Information System to apprehend a child named in an outstanding writ of attachment.

The contents of a court record may additionally be divulged:

- in the child's juvenile proceeding to certain parties related to the proceeding; and
- to certain parties in a criminal proceeding in order to determine eligibility for pretrial release.

Law enforcement authorities must also report certain arrests of children enrolled in the public school system to the local superintendent of schools.

Background: In June 2002, a 21-year old karate instructor on Maryland's Eastern Shore, was charged with sexually abusing four young girls. The instructor pled guilty to one count each of second degree sexual offense and child abuse. After charges were filed, it was disclosed that the instructor had a juvenile record involving sexual offenses. Pursuant to State confidentiality laws, background checks did not reveal his juvenile record.

Additional Information

Prior Introductions: None.

Cross File: HB 918 (Delegates Sossi and Walkup) – Judiciary.

Information Source(s): Department of Juvenile Justice, Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2003
ncs/cer

Analysis by: Rita A. Reimer

Direct Inquiries to:
(410) 946-5510
(301) 970-5510