
By: **Senator McFadden (By Request - Baltimore City Administration)**

Introduced and read first time: February 4, 2005

Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Children - Records - Access by Local Health Departments**

3 FOR the purpose of requiring the Department of Juvenile Services to disclose to a
4 local health department certain records concerning certain children under
5 certain circumstances; requiring that certain records and reports concerning
6 child abuse and neglect be disclosed to a local health department under certain
7 circumstances; authorizing access to certain court records and police records by
8 a local health department under certain circumstances; requiring the
9 Department of State Police to provide to a local health department certain
10 information concerning certain child victims under certain circumstances;
11 requiring a local health department to keep certain information confidential;
12 authorizing a local health department to use certain information solely for a
13 certain purpose; and generally relating to records concerning children and
14 access by local health departments.

15 BY repealing and reenacting, with amendments,
16 Article 83C - Juvenile Services
17 Section 2-115
18 Annotated Code of Maryland
19 (2003 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article 88A - Department of Human Resources
22 Section 6
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Courts and Judicial Proceedings
27 Section 3-827
28 Annotated Code of Maryland
29 (2002 Replacement Volume and 2004 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Courts and Judicial Proceedings
3 Section 3-8A-27
4 Annotated Code of Maryland
5 (2002 Replacement Volume and 2004 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Public Safety
8 Section 2-307
9 Annotated Code of Maryland
10 (2003 Volume and 2004 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Public Safety
13 Section 2-308
14 Annotated Code of Maryland
15 (2003 Volume and 2004 Supplement)

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

18 **Article 83C - Juvenile Services**

19 2-115.

20 (a) In this section, "confidential record" means any record, report, statement,
21 note, or other information that:

22 (1) Is assembled or obtained for research or study by the Department or
23 the Secretary; and

24 (2) Names or otherwise identifies any person.

25 (b) The Department shall have a unit for research and development. The unit
26 shall:

27 (1) Compile accurate statistics and reliable information on all aspects of
28 the juvenile program of this State;

29 (2) Monitor current developments in the field of juvenile justice;

30 (3) Assess existing programs and activities;

31 (4) Help develop new or improved means to prevent juvenile offenses and
32 control and treat juvenile offenders;

33 (5) If necessary, initiate studies to help the Secretary in general planning
34 and program development for the Department; and

1 (6) For these and related purposes, use research and information
2 available from all sources.

3 (c) Each confidential record that was assembled by the Juvenile Services
4 Agency shall be transferred to the custody of the Department.

5 (d) Each confidential record shall remain in the custody and control of the
6 Department if:

7 (1) The Department assembled or obtained the confidential record; or

8 (2) The confidential record was transferred to the Department from the
9 Juvenile Services Agency.

10 (e) The confidential record may be used only for the research and study for
11 which it was assembled or obtained.

12 (f) A person may not disclose any confidential record to any person who is not
13 engaged in the research or study project.

14 (g) This section does not apply to or restrict the use or publication of any
15 statistics, information, or other material that summarizes or refers to confidential
16 records in the aggregate, without disclosing the identity of any person who is the
17 subject of the confidential record.

18 (H) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE
19 DEPARTMENT SHALL DISCLOSE TO A LOCAL HEALTH DEPARTMENT, ON REQUEST:

20 (1) A CONFIDENTIAL RECORD CONCERNING A CHILD TO WHOM THE
21 LOCAL HEALTH DEPARTMENT IS PROVIDING TREATMENT OR CARE, FOR A PURPOSE
22 RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; AND

23 (2) A CONFIDENTIAL RECORD CONCERNING A CHILD VICTIM OF A CRIME
24 OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, FOR THE
25 PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT
26 REDUCING VIOLENCE AGAINST CHILDREN.

27 **Article 88A - Department of Human Resources**

28 6.

29 (a) Except in accordance with a court order or to an authorized officer or
30 employee of the State, another state or local government, or the United States, or a
31 fiduciary institution having a right thereto in an official capacity, and as necessary to
32 discharge responsibilities to administer public assistance, medical assistance, or
33 social services programs, it shall be unlawful for any person or persons to divulge or
34 make known in any manner any information concerning any applicant for or recipient
35 of social services, child welfare services, cash assistance, food stamps, or medical
36 assistance, directly or indirectly derived from the records, papers, files, investigations

1 or communications of the State, county or city, or subdivisions or agencies thereof, or
2 acquired in the course of the performance of official duties.

3 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
4 Article, § 6A of this subtitle, and this section, all records and reports concerning child
5 abuse or neglect are confidential, and their unauthorized disclosure is a criminal
6 offense subject to the penalty set out in subsection (e) of this section. Reports or
7 records concerning child abuse or neglect:

8 (1) Shall be disclosed:

9 (i) Under a court order; [or]

10 (ii) Under an order of an administrative law judge, if the request for
11 disclosure concerns a case pending before the Office of Administrative Hearings and
12 provisions are made to comply with other State or federal confidentiality laws and to
13 protect the identity of the reporter or other person whose life or safety is likely to be
14 endangered by disclosure; [and] OR

15 (III) ON REQUEST, TO A LOCAL HEALTH DEPARTMENT:

16 1. IF THE LOCAL HEALTH DEPARTMENT IS PROVIDING
17 TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD
18 ABUSE OR NEGLECT, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE
19 TREATMENT OR CARE; OR

20 2. IF THE RECORD OR REPORT CONCERNS A CHILD VICTIM
21 OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,
22 FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED
23 AT REDUCING VIOLENCE AGAINST CHILDREN; AND

24 (2) May be disclosed on request:

25 (i) To personnel of local or State departments of social services, law
26 enforcement personnel, and members of multidisciplinary case consultation teams,
27 who are investigating a report of known or suspected child abuse or neglect or who
28 are providing services to a child or family that is the subject of the report;

29 (ii) To local or State officials responsible for the administration of
30 child protective services or child care, foster care, and adoption licensing, approval, or
31 regulations as necessary to carry out their official functions;

32 (iii) To the State Council on Child Abuse and Neglect, the State
33 Citizens Review Board for Children, or their designees, or a child fatality review team
34 as necessary to carry out their official functions;

35 (iv) To a person who is the alleged child abuser or the person who is
36 suspected of child neglect if that person is responsible for the child's welfare and
37 provisions are made for the protection of the identity of the reporter or any other
38 person whose life or safety is likely to be endangered by disclosing the information;

1 (v) [To] SUBJECT TO THE PROVISIONS OF PARAGRAPH (1)(III) OF
2 THIS SUBSECTION, TO a licensed practitioner who, or an agency, institution, or
3 program which, is providing treatment or care to a child who is the subject of a report
4 of child abuse or neglect for a purpose relevant to the provision of the treatment or
5 care;

6 (vi) To a parent or other person who has permanent or temporary
7 care and custody of a child, if provisions are made for the protection of the identity of
8 the reporter or any other person whose life or safety is likely to be endangered by
9 disclosing the information;

10 (vii) To the appropriate public school superintendent for the purpose
11 of carrying out appropriate personnel or administrative actions following a report of
12 suspected child abuse involving a student committed by:

13 1. A public school employee in that school system;

14 2. An independent contractor who supervises or works
15 directly with students in that school system; or

16 3. An employee of an independent contractor, including a bus
17 driver or bus assistant, who supervises or works directly with students in that school
18 system;

19 (viii) To the director of a licensed child care facility or licensed child
20 placement agency for the purpose of carrying out appropriate personnel actions
21 following a report of suspected child neglect or abuse alleged to have been committed
22 by an employee of the facility or agency and involving a child who is currently or who
23 was previously under that facility's or agency's care; or

24 (ix) To the Office of the Independent Juvenile Justice Monitor
25 established under Article 49D of the Code.

26 (c) Nothing in this section shall be construed to prohibit:

27 (1) The publication, for administrative or research purposes, of statistics
28 or other data so classified as to prevent the identification of particular persons or
29 cases;

30 (2) The Department of Human Resources from obtaining an individual's
31 financial records from a fiduciary institution in the course of verifying the
32 individual's eligibility for public assistance; or

33 (3) Disclosures as permitted by § 1-303 of the Financial Institutions
34 Article.

35 (d) The Department of Human Resources shall issue regulations governing
36 access to and use of confidential information which is in the possession of the
37 Department or local departments of social services.

1 (e) Any offense against the provisions of this section shall be a misdemeanor
2 and shall be punishable by a fine not exceeding \$500 or imprisonment for not
3 exceeding 90 days, or both, in the discretion of the court.

4 **Article - Courts and Judicial Proceedings**

5 3-827.

6 (a) (1) All court records under this subtitle pertaining to a child shall be
7 confidential and their contents may not be divulged, by subpoena or otherwise, except
8 by order of the court on good cause shown.

9 (2) This subsection does not prohibit review of a court record by:

10 (i) Personnel of the court;

11 (ii) A party;

12 (iii) Counsel for a party;

13 (iv) A Court-Appointed Special Advocate for the child; [or]

14 (v) Authorized personnel of the Social Services Administration and
15 local departments in order to conduct a child abuse or neglect investigation or to
16 comply with requirements imposed under Title IV-E of the Social Security Act; OR

17 (VI) A LOCAL HEALTH DEPARTMENT:

18 1. IF THE LOCAL HEALTH DEPARTMENT IS PROVIDING
19 TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A
20 PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; OR

21 2. IF THE RECORD CONCERNS A CHILD VICTIM OF A CRIME
22 OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, FOR THE
23 PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT
24 REDUCING VIOLENCE AGAINST CHILDREN.

25 (3) Information obtained from a court record is subject to the provisions
26 of Article 88A, § 6 of the Code.

27 (b) (1) On its own motion or on petition, and for good cause shown, the court:

28 (i) May order the court records of a child sealed; and

29 (ii) Shall order them sealed after the child has reached the age of
30 21.

31 (2) If sealed, the court records of a child may not be opened, for any
32 purpose, except by order of the court on good cause shown.

1 3-8A-27.

2 (a) (1) A police record concerning a child is confidential and shall be
3 maintained separate from those of adults. Its contents may not be divulged, by
4 subpoena or otherwise, except by order of the court upon good cause shown or as
5 otherwise provided in § 7-303 of the Education Article.

6 (2) This subsection does not prohibit:

7 (i) Access to and confidential use of the record by the Department
8 of Juvenile Services or in the investigation and prosecution of the child by any law
9 enforcement agency; [or]

10 (II) ACCESS TO AND CONFIDENTIAL USE OF THE RECORD BY A
11 LOCAL HEALTH DEPARTMENT:

12 1. IF THE LOCAL HEALTH DEPARTMENT IS PROVIDING
13 TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A
14 PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; OR

15 2. IF THE RECORD CONCERNS A CHILD VICTIM OF A CRIME
16 OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, FOR THE
17 PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT
18 REDUCING VIOLENCE AGAINST CHILDREN; OR

19 [(ii)] (III) A law enforcement agency of the State or of a political
20 subdivision of the State, the Department of Juvenile Services, or the criminal justice
21 information system from including in the law enforcement computer information
22 system information about an outstanding juvenile court ordered writ of attachment,
23 for the sole purpose of apprehending a child named in the writ.

24 (b) (1) A court record pertaining to a child is confidential and its contents
25 may not be divulged, by subpoena or otherwise, except by order of the court upon good
26 cause shown or as provided in § 7-303 of the Education Article.

27 (2) This subsection does not prohibit access to and the use of the court
28 record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal
29 Procedure Article in a proceeding in the court involving the child, by personnel of the
30 court, the State's Attorney, counsel for the child, a court-appointed special advocate
31 for the child, or authorized personnel of the Department of Juvenile Services.

32 (3) (i) Except as provided in subparagraph (ii) of this paragraph, this
33 subsection does not prohibit access to and confidential use of the court record or
34 fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure
35 Article by the Department of Juvenile Services or in an investigation and prosecution
36 by a law enforcement agency.

37 (ii) The court record or fingerprints of a child described under §§
38 10-215(a)(21) and (22), 10-216, and 10-220 of the Criminal Procedure Article may
39 not be disclosed to:

- 1 1. A federal criminal justice agency or information center; or
2 2. Any law enforcement agency other than a law enforcement
3 agency of the State or a political subdivision of the State.

4 (4) (i) This subsection does not prohibit access to and use of a court
5 record by a judicial officer who is authorized under the Maryland Rules to determine
6 a defendant's eligibility for pretrial release, counsel for the defendant, or the State's
7 Attorney if:

- 8 1. The individual who is the subject of the court record is
9 charged as an adult with an offense;
- 10 2. The access to and use of the court record is strictly limited
11 for the purpose of determining the defendant's eligibility for pretrial release; and
- 12 3. The court record concerns an adjudication of delinquency
13 that occurred within 3 years of the date the individual is charged as an adult.
- 14 (ii) The Court of Appeals may adopt rules to implement the
15 provisions of this paragraph.

16 (5) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND
17 CONFIDENTIAL USE OF A COURT RECORD BY A LOCAL HEALTH DEPARTMENT:

18 (I) IF THE LOCAL HEALTH DEPARTMENT IS PROVIDING
19 TREATMENT OR CARE TO A CHILD WHO IS THE SUBJECT OF THE RECORD, FOR A
20 PURPOSE RELEVANT TO THE PROVISION OF THE TREATMENT OR CARE; OR

21 (II) IF THE RECORD CONCERNS A CHILD VICTIM OF A CRIME OF
22 VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, FOR THE
23 PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT
24 REDUCING VIOLENCE AGAINST CHILDREN.

25 (c) The court, on its own motion or on petition, and for good cause shown, may
26 order the court records of a child sealed, and, upon petition or on its own motion, shall
27 order them sealed after the child has reached 21 years of age. If sealed, the court
28 records of a child may not be opened, for any purpose, except by order of the court
29 upon good cause shown.

30 (d) This section does not prohibit access to or use of any juvenile record by the
31 Maryland Division of Parole and Probation or the Maryland Parole Commission when
32 the Division or the Commission is carrying out any of their statutory duties either at
33 the direction of a court of competent jurisdiction, or when the Maryland Parole
34 Commission is carrying out any of its statutory duties, if the record concerns a charge
35 or adjudication of delinquency.

36 (e) This section does not prohibit access to and use of any juvenile record by
37 the Maryland Division of Correction when the Division is carrying out any of its

1 statutory duties if: (1) the individual to whom the record pertains is committed to the
2 custody of the Division; and (2) the record concerns an adjudication of delinquency.

3 (f) Subject to the provisions of Article 83C, § 2-115 of the Code, this section
4 does not prohibit access to or use of any juvenile record for criminal justice research
5 purposes. A record used under this subsection may not contain the name of the
6 individual to whom the record pertains, or any other identifying information which
7 could reveal the individual's name.

8 (g) This section does not prohibit a victim or victim's representative who has
9 filed a notification request form from being notified of proceedings and events
10 involving the defendant or child as provided in this subtitle, the Criminal Procedure
11 Article, or the Criminal Law Article.

12 **Article - Public Safety**

13 2-307.

14 (a) The Department shall collect, analyze, and disseminate information about
15 the incidence of crime in the State.

16 (b) (1) The Department shall collect and analyze information about
17 incidents apparently directed against an individual or group because of race, religion,
18 ethnicity, or sexual orientation.

19 (2) Each local law enforcement agency and the State Fire Marshal shall
20 provide the Department with the information described in paragraph (1) of this
21 subsection.

22 (3) The Department shall adopt procedures for the collection and
23 analysis of the information described in paragraph (1) of this subsection.

24 (4) The Department shall make monthly reports to the Commission on
25 Human Relations about the information described in paragraph (1) of this subsection.
26 2-308.

27 (a) (1) Any information, records, or statistics collected under this subtitle
28 shall be available for use by any agency or unit required to provide information to the
29 Department.

30 (2) By rule, the Secretary may establish conditions for the use or
31 availability of the information described in paragraph (1) of this subsection as
32 necessary:

- 33 (i) to preserve the information;
- 34 (ii) to protect any confidential information; or
- 35 (iii) because of a pending prosecution.

1 (b) (1) The Department:

2 (i) shall periodically publish statistics on the incidence of crime in
3 the State; and

4 (ii) at least monthly shall publish statistics about the occurrence
5 and cause of all motor vehicle accidents in the State.

6 (2) A statistical report on the incidence of crime published under this
7 subsection may not name or otherwise identify a particular known or suspected
8 offender.

9 (3) The Department shall distribute the reports required by this
10 subsection to:

11 (i) each agency or unit that contributed information contained in
12 the reports;

13 (ii) the press; and

14 (iii) any other interested person.

15 (4) By rule, the Secretary may establish conditions under which reports
16 of specific motor vehicle accidents may be made available on request to the public.

17 (c) (1) The fee for conducting a document search is \$4.

18 (2) The Department shall apply the money received from conducting
19 document searches to the cost of providing this service.

20 (D) (1) THE DEPARTMENT SHALL PROVIDE TO A LOCAL HEALTH
21 DEPARTMENT, ON REQUEST, INFORMATION CONCERNING A CHILD VICTIM OF A
22 CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

23 (2) THE LOCAL HEALTH DEPARTMENT:

24 (I) SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED
25 UNDER PARAGRAPH (1) OF THIS SUBSECTION; AND

26 (II) MAY USE THE INFORMATION SOLELY TO DEVELOP
27 APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING VIOLENCE AGAINST
28 CHILDREN.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
30 effect October 1, 2005.