
By: **Delegate Zirkin**

Introduced and read first time: February 16, 2006

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Foster Children - Access to Records**

3 FOR the purpose of establishing an exception to a provision making certain
4 disclosures unlawful, for certain disclosures to an attorney representing a child
5 in a certain class action concerning child welfare services; requiring the
6 disclosure of certain records and reports concerning child abuse and neglect to
7 an attorney representing a child in a certain class action concerning child
8 welfare services; establishing an exception to certain confidentiality
9 requirements for certain court records to allow review by the counsel
10 representing a child in a certain class action concerning child welfare services;
11 and generally relating to the access of certain social services records by an
12 attorney representing a child in a certain class action concerning child welfare
13 services.

14 BY repealing and reenacting, with amendments,
15 Article 88A - Department of Human Resources
16 Section 6(a) and (b)
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2005 Supplement)
19 (As enacted by Chapters 10 and 12 of the Acts of the General Assembly of 2006)

20 BY repealing and reenacting, with amendments,
21 Article - Courts and Judicial Proceedings
22 Section 3-827
23 Annotated Code of Maryland
24 (2002 Replacement Volume and 2005 Supplement)
25 (As enacted by Chapter 10 of the Acts of the General Assembly of 2006)

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

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

2 6.

3 (a) Except in accordance with a court order or to an authorized officer or
4 employee of the State, another state or local government, or the United States, AN
5 ATTORNEY REPRESENTING A CHILD AS PART OF A CERTIFIED CLASS ACTION
6 CONCERNING CHILD WELFARE SERVICES THAT IS PENDING IN A STATE OR FEDERAL
7 COURT IN MARYLAND, or a fiduciary institution having a right thereto in an official
8 capacity, and as necessary to discharge responsibilities to administer public
9 assistance, medical assistance, or social services programs, it shall be unlawful for
10 any person or persons to divulge or make known in any manner any information
11 concerning any applicant for or recipient of social services, child welfare services, cash
12 assistance, food stamps, or medical assistance, directly or indirectly derived from the
13 records, papers, files, investigations or communications of the State, county or city, or
14 subdivisions or agencies thereof, or acquired in the course of the performance of
15 official duties.

16 (b) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family
17 Law Article, and § 6A of this subtitle, and this section, all records and reports
18 concerning child abuse or neglect are confidential, and their unauthorized disclosure
19 is a criminal offense subject to the penalty set out in subsection (e) of this section.
20 Reports or records concerning child abuse or neglect:

21 (1) Shall be disclosed:

22 (i) Under a court order;

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

28 (iii) On a written request, to the Baltimore City Health Department:

29 1. If the Baltimore City Health Department is providing
30 treatment or care to a child who is the subject of a report of child abuse or neglect, for
31 a purpose relevant to the provision of the treatment or care; or

32 2. If the record or report concerns a victim of a crime of
33 violence, as defined in § 14-101 of the Criminal Law Article, who is a child residing in
34 Baltimore City for the purpose of developing appropriate programs and policies aimed
35 at reducing violence against children in Baltimore City; OR

36 (IV) TO AN ATTORNEY REPRESENTING A CHILD AS PART OF A
37 CERTIFIED CLASS ACTION CONCERNING CHILD WELFARE SERVICES THAT IS
38 PENDING IN A STATE OR FEDERAL COURT IN MARYLAND;

39 (2) May be disclosed on request:

1 (i) To personnel of local or State departments of social services, law
2 enforcement personnel, and members of multidisciplinary case consultation teams,
3 including an addiction specialist as defined in Title 5, Subtitle 12 of the Family Law
4 Article or § 50A of this article, who are investigating a report of known or suspected
5 child abuse or neglect or who are providing services to or assessing a child or family
6 that is the subject of the report;

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

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

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

17 (v) To a licensed practitioner who, or an agency, institution, or
18 program which, is providing treatment or care to a child who is the subject of a report
19 of child abuse or neglect for a purpose relevant to the provision of the treatment or
20 care;

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

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

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

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

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

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

1 (ix) To the Juvenile Justice Monitoring Unit of the Office of the
2 Attorney General established under Title 6, Subtitle 4 of the State Government
3 Article; or

4 (x) Subject to the provisions of subsection (c) of this section, to a
5 licensed practitioner of a hospital or birthing center for the purpose of making
6 discharge decisions concerning a child, when the practitioner suspects that the child
7 may be in danger after discharge based on the practitioner's observation of the
8 behavior of the child's parents or immediate family members; and

9 (3) May be disclosed by the State Department of Education to the
10 operator of a child care center that is required to be licensed or to hold a letter of
11 compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family
12 day care provider who is required to be registered under Title 5, Subtitle 5, Part V of
13 the Family Law Article for the purpose of determining the suitability of an individual
14 for employment in the child care center or family day care home.

15 **Article - Courts and Judicial Proceedings**

16 3-827.

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

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

21 (i) Personnel of the court;

22 (ii) A party;

23 (iii) Counsel for a party;

24 (iv) A Court-Appointed Special Advocate for the child;

25 (v) Authorized personnel of the Social Services Administration and
26 local departments in order to conduct a child abuse or neglect investigation or to
27 comply with requirements imposed under Title IV-E of the Social Security Act; [or]

28 (vi) The Baltimore City Health Department:

29 1. If the Baltimore City Health Department is providing
30 treatment or care to a child who is the subject of the record, for a purpose relevant to
31 the provision of the treatment or care; or

32 2. If the record concerns a victim of a crime of violence, as
33 defined in § 14-101 of the Criminal Law Article, who is a child residing in Baltimore
34 City for the purpose of developing appropriate programs and policies aimed at
35 reducing violence against children in Baltimore City; OR

1 (VII) COUNSEL REPRESENTING A CHILD AS PART OF A CERTIFIED
2 CLASS ACTION CONCERNING CHILD WELFARE SERVICES THAT IS PENDING IN A
3 STATE OR FEDERAL COURT IN MARYLAND.

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

6 (4) (i) The Baltimore City Health Department shall be liable for the
7 unauthorized release of a court record under this subsection.

8 (ii) Within 180 days after the Baltimore City Health Department
9 reviews a court record under this subsection, the Baltimore City Health Department
10 shall submit a report to the court detailing the purposes for which the record was
11 used.

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

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

14 (ii) Shall order them sealed after the child has reached the age of
15 21.

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2006.