
By: **Delegate Zirkin**

Introduced and read first time: February 16, 2006

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, February 27, 2006

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2006

CHAPTER _____

1 AN ACT concerning

2 **Family Law – Foster Children Child Abuse and Neglect Records and Reports**
 3 **- Access to Records by Counsel for the Child**

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

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

21 ~~BY repealing and reenacting, with amendments,~~
 22 ~~Article Courts and Judicial Proceedings~~
 23 ~~Section 3-827~~
 24 ~~Annotated Code of Maryland~~

1 ~~(2002 Replacement Volume and 2005 Supplement)~~
2 ~~(As enacted by Chapter 10 of the Acts of the General Assembly of 2006)~~

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

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

6 6.

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

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

25 (1) Shall be disclosed:

26 (i) Under a court order;

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

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

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

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

1 (IV) TO AN ATTORNEY REPRESENTING A CHILD ~~AS PART OF A~~
2 ~~CERTIFIED CLASS ACTION CONCERNING CHILD WELFARE SERVICES THAT IS~~
3 ~~PENDING IN A STATE OR FEDERAL COURT IN MARYLAND~~ WHO IS THE SUBJECT OF
4 THE REPORT OR RECORD;

5 (2) May be disclosed on request:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 **Article—Courts and Judicial Proceedings**

21 ~~3-827.~~

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

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

26 ~~(i) Personnel of the court;~~

27 ~~(ii) A party;~~

28 ~~(iii) Counsel for a party;~~

29 ~~(iv) A Court Appointed Special Advocate for the child;~~

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

33 ~~(vi) The Baltimore City Health Department;~~

34 ~~1. If the Baltimore City Health Department is providing~~
 35 ~~treatment or care to a child who is the subject of the record, for a purpose relevant to~~
 36 ~~the provision of the treatment or care; or~~

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

5 (VII) ~~COUNSEL REPRESENTING A CHILD AS PART OF A CERTIFIED~~
 6 ~~CLASS ACTION CONCERNING CHILD WELFARE SERVICES THAT IS PENDING IN A~~
 7 ~~STATE OR FEDERAL COURT IN MARYLAND.~~

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

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

12 (ii) ~~Within 180 days after the Baltimore City Health Department~~
 13 ~~reviews a court record under this subsection, the Baltimore City Health Department~~
 14 ~~shall submit a report to the court detailing the purposes for which the record was~~
 15 ~~used.~~

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

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

18 (ii) ~~Shall order them sealed after the child has reached the age of~~
 19 ~~21.~~

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

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