

# HOUSE BILL 768

E3, J1

8lr1638  
CF SB 607

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By: **Delegate Anderson (By Request – Baltimore City Administration) and Delegate Glenn**

Introduced and read first time: February 4, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Children – Records – Access by the Baltimore City Health Department**

3 FOR the purpose of extending the termination date for certain provisions of law  
4 relating to certain records and reports concerning children and access by the  
5 Baltimore City Health Department; authorizing access to certain court records  
6 and police records by the Baltimore City Health Department under certain  
7 circumstances; requiring the State Department of Education to disclose to the  
8 Baltimore City Health Department certain records concerning certain children  
9 under certain circumstances; requiring the Baltimore City Health Department  
10 to keep certain information confidential; providing that the Baltimore City  
11 Health Department shall be liable for the unauthorized release of certain  
12 information; requiring the Baltimore City Health Department to submit certain  
13 reports under certain circumstances; requiring that certain records and reports  
14 concerning child abuse and neglect be disclosed to the Baltimore City Health  
15 Department under certain circumstances; requiring the Department of Juvenile  
16 Services to disclose to the Baltimore City Health Department certain records  
17 concerning certain children under certain circumstances; requiring the  
18 Department of State Police to provide to the Baltimore City Health Department  
19 certain information concerning certain children under certain circumstances;  
20 defining a certain term; and generally relating to records concerning children  
21 and access by the Baltimore City Health Department.

22 BY repealing and reenacting, with amendments,  
23 Article – Courts and Judicial Proceedings  
24 Section 3–827(a) and 3–8A–27(a) and (b)  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2007 Supplement)

27 BY adding to  
28 Article – Education

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–107  
2 Annotated Code of Maryland  
3 (2006 Replacement Volume and 2007 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – Human Services  
6 Section 1–202(b) and 9–219(f)  
7 Annotated Code of Maryland  
8 (2007 Volume)

9 BY repealing and reenacting, with amendments,  
10 Article – Public Safety  
11 Section 2–308(d)  
12 Annotated Code of Maryland  
13 (2003 Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Chapter 10 of the Acts of the General Assembly of 2006  
16 Section 2

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

19 **Article – Courts and Judicial Proceedings**

20 3–827.

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

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

25 (i) Personnel of the court;

26 (ii) A party;

27 (iii) Counsel for a party;

28 (iv) A Court–Appointed Special Advocate for the child;

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

32 (vi) The Baltimore City Health Department:

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

4                   **2.     IF THE RECORD CONCERNS A CHILD CONVICTED**  
5 **OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT ACT THAT**  
6 **CAUSED A DEATH OR NEAR FATALITY; or**

7                   [2.] **3.** If the record concerns a victim of a crime of violence,  
8 as defined in § 14–101 of the Criminal Law Article, who is a child residing in  
9 Baltimore City for the purpose of developing appropriate programs and policies aimed  
10 at reducing violence against children in Baltimore City.

11                   (3) Information obtained from a court record is subject to the  
12 provisions of §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article.

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

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

19 3–8A–27.

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

24                   (2) This subsection does not prohibit:

25                   (i) Access to and confidential use of the record by the  
26 Department of Juvenile Services or in the investigation and prosecution of the child by  
27 any law enforcement agency;

28                   (ii) Access to and confidential use of the record by the Baltimore  
29 City Health Department:

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

33                   **2.     IF THE RECORD CONCERNS A CHILD CONVICTED**  
34 **OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT ACT THAT**  
35 **CAUSED A DEATH OR NEAR FATALITY; or**

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

5 (iii) A law enforcement agency of the State or of a political  
6 subdivision of the State, the Department of Juvenile Services, or the criminal justice  
7 information system from including in the law enforcement computer information  
8 system information about an outstanding juvenile court ordered writ of attachment,  
9 for the sole purpose of apprehending a child named in the writ.

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

12 (ii) Within 180 days after the Baltimore City Health  
13 Department accesses a police record under this subsection, the Baltimore City Health  
14 Department shall submit a report to the law enforcement agency from which the  
15 record was received detailing the purposes for which the record was used.

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

19 (2) This subsection does not prohibit access to and the use of the court  
20 record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal  
21 Procedure Article in a proceeding in the court involving the child, by personnel of the  
22 court, the State’s Attorney, counsel for the child, a court–appointed special advocate  
23 for the child, or authorized personnel of the Department of Juvenile Services.

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

29 (ii) The court record or fingerprints of a child described under §§  
30 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not  
31 be disclosed to:

32 1. A federal criminal justice agency or information  
33 center; or

34 2. Any law enforcement agency other than a law  
35 enforcement agency of the State or a political subdivision of the State.

36 (4) (i) This subsection does not prohibit access to and use of a court  
37 record by a judicial officer who is authorized under the Maryland Rules to determine a

1 defendant’s eligibility for pretrial release, counsel for the defendant, or the State’s  
2 Attorney if:

3 1. The individual who is the subject of the court record is  
4 charged as an adult with an offense;

5 2. The access to and use of the court record is strictly  
6 limited for the purpose of determining the defendant’s eligibility for pretrial release;  
7 and

8 3. The court record concerns an adjudication of  
9 delinquency that occurred within 3 years of the date the individual is charged as an  
10 adult.

11 (ii) The Court of Appeals may adopt rules to implement the  
12 provisions of this paragraph.

13 (5) (i) This subsection does not prohibit access to and confidential  
14 use of a court record by the Baltimore City Health Department:

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

18 **2. IF THE RECORD CONCERNS A CHILD CONVICTED**  
19 **OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT ACT THAT**  
20 **CAUSED A DEATH OR NEAR FATALITY; or**

21 [2.] **3.** If the record concerns a victim of a crime of violence,  
22 as defined in § 14–101 of the Criminal Law Article, who is a child residing in  
23 Baltimore City for the purpose of developing appropriate programs and policies aimed  
24 at reducing violence against children in Baltimore City.

25 (ii) 1. The Baltimore City Health Department shall be liable  
26 for the unauthorized release of a court record under this paragraph.

27 2. Within 180 days after the Baltimore City Health  
28 Department accesses a court record under this paragraph, the Baltimore City Health  
29 Department shall submit a report to the court detailing the purposes for which the  
30 record was used.

31 **Article – Education**

32 **2–107.**

1           (A) IN THIS SECTION, "CONFIDENTIAL RECORD" MEANS A RECORD,  
2 REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT INCLUDES  
3 INFORMATION CONCERNING A CHILD'S:

4           (1) DATE OF BIRTH;

5           (2) SCHOOL PLACEMENT;

6           (3) GRADE LEVEL PROMOTION HISTORY;

7           (4) ATTENDANCE HISTORY, INCLUDING SUSPENSION AND  
8 EXPULSION;

9           (5) PROGRESS REPORTS, INCLUDING REPORT CARDS OR  
10 TRANSCRIPTS; AND

11           (6) SPECIAL EDUCATION CLASSIFICATION OR DIAGNOSIS,  
12 INDIVIDUALIZED EDUCATION PLAN DOCUMENTATION, OR  
13 PSYCHO-EDUCATIONAL ASSESSMENT RESULTS.

14           (B) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE  
15 DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH  
16 DEPARTMENT ON A WRITTEN REQUEST:

17                   (I) A CONFIDENTIAL RECORD CONCERNING A CHILD TO  
18 WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING  
19 TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE  
20 TREATMENT OR CARE;

21                   (II) A CONFIDENTIAL RECORD CONCERNING A CHILD  
22 CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A  
23 DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY; AND

24                   (III) A CONFIDENTIAL RECORD CONCERNING A VICTIM OF A  
25 CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE,  
26 WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF  
27 DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING  
28 VIOLENCE AGAINST CHILDREN IN BALTIMORE CITY.

29           (2) (I) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL  
30 KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF  
31 THIS SUBSECTION.

1                   **(II) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL**  
 2 **BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED**  
 3 **UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

4                   **(3) WITHIN 180 DAYS AFTER THE BALTIMORE CITY HEALTH**  
 5 **DEPARTMENT RECEIVES A CONFIDENTIAL RECORD UNDER PARAGRAPH (1) OF**  
 6 **THIS SUBSECTION, THE BALTIMORE CITY HEALTH DEPARTMENT SHALL**  
 7 **SUBMIT A REPORT TO THE DEPARTMENT DETAILING THE PURPOSES FOR WHICH**  
 8 **THE CONFIDENTIAL RECORD WAS USED.**

9   **Article - Human Services**

10 1-202.

11           (b) A report or record concerning child abuse or neglect shall be disclosed:

12                   (1) under a court order;

13                   (2) under an order of an administrative law judge, if:

14                                   (i) the request for disclosure concerns a case pending before the  
 15 Office of Administrative Hearings; and

16                                   (ii) provisions are made to comply with other State or federal  
 17 confidentiality laws and to protect the identity of the reporter or other person whose  
 18 life or safety is likely to be endangered by the disclosure; or

19                   (3) on a written request, to the Baltimore City Health Department:

20                                   (i) if the Baltimore City Health Department is providing  
 21 treatment or care to a child who is the subject of a report of child abuse or neglect, for  
 22 a purpose relevant to the provision of the treatment or care;

23                   **(II) IF THE RECORD OR REPORT CONCERNS A CHILD**  
 24 **CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A**  
 25 **DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY; or**

26                                   [(ii)] **(III)** if the record or report concerns a victim of a crime of  
 27 violence, as defined in § 14-101 of the Criminal Law Article, who is a child residing in  
 28 Baltimore City, for the purpose of developing appropriate programs and policies aimed  
 29 at reducing violence against children in Baltimore City.

30 9-219.

31           (f) (1) Notwithstanding the provisions of this section, the Department  
 32 shall disclose to the Baltimore City Health Department, on a written request:

1 (i) a confidential research record concerning a child to whom  
2 the Baltimore City Health Department is providing treatment or care, for a purpose  
3 relevant to the provision of the treatment or care;

4 (II) **A CONFIDENTIAL RESEARCH RECORD CONCERNING A**  
5 **CHILD CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A**  
6 **DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY;** and

7 [(ii)] (III) a confidential research record concerning a victim of a  
8 crime of violence, as defined in § 14–101 of the Criminal Law Article, who is a child  
9 residing in Baltimore City, for the purpose of developing appropriate programs and  
10 policies aimed at reducing violence against children in Baltimore City.

11 (2) (i) The Baltimore City Health Department shall keep  
12 confidential any information provided under paragraph (1) of this subsection.

13 (ii) The Baltimore City Health Department shall be liable for  
14 the unauthorized release of information provided under paragraph (1) of this  
15 subsection.

16 (3) Within 180 days after the Baltimore City Health Department  
17 receives a confidential research record under paragraph (1) of this subsection, the  
18 Baltimore City Health Department shall submit a report to the Department detailing  
19 the purposes for which the confidential record was used.

## 20 **Article – Public Safety**

21 2–308.

22 (d) (1) The Department shall provide to the Baltimore City Health  
23 Department, on a written request, information concerning:

24 (I) a victim of a crime of violence, as defined in § 14–101 of the  
25 Criminal Law Article, who is a child residing in Baltimore City; **AND**

26 (II) **A CHILD CONVICTED OF A CRIME OR ADJUDICATED AS**  
27 **HAVING COMMITTED A DELINQUENT ACT THAT CAUSED A DEATH OR NEAR**  
28 **FATALITY.**

29 (2) The Baltimore City Health Department:

30 (i) shall keep confidential any information provided under  
31 paragraph (1) of this subsection;

32 (ii) may use the information solely to develop appropriate  
33 programs and policies aimed at reducing violence against children in Baltimore City;  
34 and



1 (iii) shall be liable for the unauthorized release of any  
2 information provided under paragraph (1) of this subsection.

3 (3) Within 180 days after the Baltimore City Health Department  
4 receives information under this subsection, the Baltimore City Health Department  
5 shall submit a report to the Department detailing the purposes for which the record  
6 was used.

7 **Chapter 10 of the Acts of 2006**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2005. It shall remain effective for a period of [3] **6** years and, at the end of  
10 September 30, [2008] **2011**, with no further action required by the General Assembly,  
11 this Act shall be abrogated and of no further force and effect.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2008.