

# 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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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2008

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## CHAPTER \_\_\_\_\_

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; providing for the termination of this Act;~~ and generally  
21 relating to records concerning children and access by the Baltimore City Health  
22 Department.

23 BY repealing and reenacting, with amendments,  
24 Article - Courts and Judicial Proceedings

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3–827(a) and 3–8A–27(a) and (b)  
2 Annotated Code of Maryland  
3 (2006 Replacement Volume and 2007 Supplement)

4 ~~BY adding to~~  
5 ~~Article – Education~~  
6 ~~Section 2–107~~  
7 ~~Annotated Code of Maryland~~  
8 ~~(2006 Replacement Volume and 2007 Supplement)~~

9 BY repealing and reenacting, with amendments,  
10 Article – Human Services  
11 Section 1–202(b) and 9–219(f)  
12 Annotated Code of Maryland  
13 (2007 Volume)

14 BY repealing and reenacting, with amendments,  
15 Article – Public Safety  
16 Section 2–308(d)  
17 Annotated Code of Maryland  
18 (2003 Volume and 2007 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Chapter 10 of the Acts of the General Assembly of 2006  
21 Section 2

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

24 **Article – Courts and Judicial Proceedings**

25 3–827.

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

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

30 (i) Personnel of the court;

31 (ii) A party;

32 (iii) Counsel for a party;

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

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

4 (vi) The Baltimore City Health Department:

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

8 **2. IF THE RECORD CONCERNS A CHILD CONVICTED**  
9 **OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~**  
10 **DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or**

11 [2.] **3.** If the record concerns a victim of a crime of violence,  
12 as defined in § 14–101 of the Criminal Law Article, who is a child residing in  
13 Baltimore City for the purpose of developing appropriate programs and policies aimed  
14 at reducing violence against children in Baltimore City.

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

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

19 (ii) Within 180 days after the Baltimore City Health  
20 Department reviews a court record under this subsection, the Baltimore City Health  
21 Department shall submit a report to the court detailing the purposes for which the  
22 record was used.

23 3–8A–27.

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

28 (2) This subsection does not prohibit:

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

32 (ii) Access to and confidential use of the record by the Baltimore  
33 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~~**  
6 **DELINQUENT FOR AN ACT THAT 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; or

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

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

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

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

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

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

35                   (ii) The court record or fingerprints of a child described under §§  
36 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not  
37 be disclosed to:

1                   1.     A federal criminal justice agency or information  
2 center; or

3                   2.     Any law enforcement agency other than a law  
4 enforcement agency of the State or a political subdivision of the State.

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

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

11                   2.     The access to and use of the court record is strictly  
12 limited for the purpose of determining the defendant's eligibility for pretrial release;  
13 and

14                   3.     The court record concerns an adjudication of  
15 delinquency that occurred within 3 years of the date the individual is charged as an  
16 adult.

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

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

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

24                   **2.     IF THE RECORD CONCERNS A CHILD CONVICTED**  
25 **OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A DELINQUENT**  
26 **DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or**

27                   [2.] **3.** If the record concerns a victim of a crime of violence,  
28 as defined in § 14–101 of the Criminal Law Article, who is a child residing in  
29 Baltimore City for the purpose of developing appropriate programs and policies aimed  
30 at reducing violence against children in Baltimore City.

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

33                   2.     Within 180 days after the Baltimore City Health  
34 Department accesses a court record under this paragraph, the Baltimore City Health

1 Department shall submit a report to the court detailing the purposes for which the  
2 record was used.

3 ~~Article — Education~~

4 ~~2-107.~~

5 ~~(A) IN THIS SECTION, "CONFIDENTIAL RECORD" MEANS A RECORD,~~  
6 ~~REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT INCLUDES~~  
7 ~~INFORMATION CONCERNING A CHILD'S:~~

8 ~~(1) DATE OF BIRTH;~~

9 ~~(2) SCHOOL PLACEMENT;~~

10 ~~(3) GRADE LEVEL PROMOTION HISTORY;~~

11 ~~(4) ATTENDANCE HISTORY, INCLUDING SUSPENSION AND~~  
12 ~~EXPULSION;~~

13 ~~(5) PROGRESS REPORTS, INCLUDING REPORT CARDS OR~~  
14 ~~TRANSCRIPTS; AND~~

15 ~~(6) SPECIAL EDUCATION CLASSIFICATION OR DIAGNOSIS,~~  
16 ~~INDIVIDUALIZED EDUCATION PLAN DOCUMENTATION, OR~~  
17 ~~PSYCHO-EDUCATIONAL ASSESSMENT RESULTS.~~

18 ~~(B) (1) NOTWITHSTANDING THE PROVISIONS OF THIS SECTION, THE~~  
19 ~~DEPARTMENT SHALL DISCLOSE TO THE BALTIMORE CITY HEALTH~~  
20 ~~DEPARTMENT ON A WRITTEN REQUEST:~~

21 ~~(I) A CONFIDENTIAL RECORD CONCERNING A CHILD TO~~  
22 ~~WHOM THE BALTIMORE CITY HEALTH DEPARTMENT IS PROVIDING~~  
23 ~~TREATMENT OR CARE, FOR A PURPOSE RELEVANT TO THE PROVISION OF THE~~  
24 ~~TREATMENT OR CARE;~~

25 ~~(II) A CONFIDENTIAL RECORD CONCERNING A CHILD~~  
26 ~~CONVICTED OF A CRIME OR ADJUDICATED AS HAVING COMMITTED A~~  
27 ~~DELINQUENT ACT THAT CAUSED A DEATH OR NEAR FATALITY; AND~~

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



1 Baltimore City, for the purpose of developing appropriate programs and policies aimed  
2 at reducing violence against children in Baltimore City.

3 9–219.

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

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

9 (II) **A CONFIDENTIAL RESEARCH RECORD CONCERNING A**  
10 **CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A~~**  
11 **~~DELINQUENT DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR~~**  
12 **FATALITY; and**

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

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

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

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

## 26 **Article – Public Safety**

27 2–308.

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

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

32 (II) **A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS~~**  
33 **~~HAVING COMMITTED A DELINQUENT DELINQUENT FOR AN ACT THAT CAUSED A~~**  
34 **DEATH OR NEAR FATALITY.**

1 (2) The Baltimore City Health Department:

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

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

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

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

13 **Chapter 10 of the Acts of 2006**

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

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2008. It shall remain effective until the taking effect of the termination  
20 provision specified in Section 2 of Chapter 10 of the Acts of the General Assembly of  
21 2006, as amended by Section 1 of this Act. If that termination provision takes effect,  
22 this Act shall be abrogated and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.