

SENATE BILL 607

E3, J1

8lr1636
CF HB 768

By: **Senators Pugh and McFadden (By Request - Baltimore City Administration) and Senators Gladden and Jones**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

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

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.