

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2008

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

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.~~

~~(2) (i) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL KEEP CONFIDENTIAL ANY INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(ii) THE BALTIMORE CITY HEALTH DEPARTMENT SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF INFORMATION PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

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

Article - Human Services

1-202.

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

(1) under a court order;

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

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

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

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

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

(II) IF THE RECORD OR REPORT CONCERNS A CHILD CONVICTED OF A CRIME OR ADJUDICATED ~~AS HAVING COMMITTED A DELINQUENT~~ DELINQUENT FOR AN ACT THAT CAUSED A DEATH OR NEAR FATALITY; or

[(ii)] (III) if the record or report concerns a victim of a crime of violence, as defined in § 14-101 of the Criminal Law Article, who is a child residing in

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:

Governor.

President of the Senate.

Speaker of the House of Delegates.