

CHAPTER 603

(House Bill 768)

AN ACT concerning

Children – Records – Access by the Baltimore City Health Department

FOR the purpose of extending the termination date for certain provisions of law relating to certain records and reports concerning children and access by the Baltimore City Health Department; authorizing access to certain court records and police records by the Baltimore City Health Department under certain circumstances; ~~requiring the State Department of Education to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the Baltimore City Health Department to keep certain information confidential; providing that the Baltimore City Health Department shall be liable for the unauthorized release of certain information; requiring the Baltimore City Health Department to submit certain reports under certain circumstances;~~ requiring that certain records and reports concerning child abuse and neglect be disclosed to the Baltimore City Health Department under certain circumstances; requiring the Department of Juvenile Services to disclose to the Baltimore City Health Department certain records concerning certain children under certain circumstances; requiring the Department of State Police to provide to the Baltimore City Health Department certain information concerning certain children under certain circumstances; ~~defining a certain term;~~ providing for the termination of this Act; and generally relating to records concerning children and access by the Baltimore City Health Department.

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

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

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

(2007 Volume)

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

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

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

Article – Courts and Judicial Proceedings

3–827.

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

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

(i) Personnel of the court;

(ii) A party;

(iii) Counsel for a party;

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

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

(vi) The Baltimore City Health Department:

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

2. IF THE RECORD 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

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

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

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

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

3–8A–27.

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

(2) This subsection does not prohibit:

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

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

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

2. IF THE RECORD 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. IF THE RECORD 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

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

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

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

~~Article – Education~~

~~2-107.~~

~~(A) IN THIS SECTION, “CONFIDENTIAL RECORD” MEANS A RECORD, REPORT, STATEMENT, NOTE, OR OTHER INFORMATION THAT INCLUDES INFORMATION CONCERNING A CHILD’S:~~

- ~~(1) DATE OF BIRTH;~~
- ~~(2) SCHOOL PLACEMENT;~~
- ~~(3) GRADE LEVEL PROMOTION HISTORY;~~
- ~~(4) ATTENDANCE HISTORY, INCLUDING SUSPENSION AND EXPULSION;~~
- ~~(5) PROGRESS REPORTS, INCLUDING REPORT CARDS OR TRANSCRIPTS; AND~~
- ~~(6) SPECIAL EDUCATION CLASSIFICATION OR DIAGNOSIS, INDIVIDUALIZED EDUCATION PLAN DOCUMENTATION, OR PSYCHO-EDUCATIONAL ASSESSMENT RESULTS.~~

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

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

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

~~(III) A CONFIDENTIAL RECORD CONCERNING A VICTIM OF A CRIME OF VIOLENCE, AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE, WHO IS A CHILD RESIDING IN BALTIMORE CITY, FOR THE PURPOSE OF DEVELOPING APPROPRIATE PROGRAMS AND POLICIES AIMED AT REDUCING 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 Baltimore City, for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City.

9-219.

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

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

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

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

2–308.

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

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

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

(2) The Baltimore City Health Department:

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

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

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

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

Chapter 10 of the Acts of 2006

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

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

Approved by the Governor, May 22, 2008.