

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1449 (Chair, Judiciary Committee)
(By Request – Departmental – Public Safety and Correctional Services)

Judiciary

Juvenile Causes - Confidentiality of Records - Access by Division of Parole and Probation and Parole Commission

This departmental bill eliminates the condition that access or use of any juvenile record by the Maryland Parole Commission or the Division of Parole and Probation to be at the direction of a court, or when the commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

Fiscal Summary

State Effect: Minimal. The bill's requirements, including computer programming modifications, could be accommodated with the existing budgeted resources of the Department of Public Safety and Correctional Services (DPSCS) and the Department of Juvenile Services (DJS).

Local Effect: None.

Small Business Effect: DPSCS has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: In general, the juvenile court has jurisdiction over a child alleged to be delinquent. If the juvenile court obtains jurisdiction, that jurisdiction continues until that person reaches age 21 unless terminated sooner. The juvenile court does not have jurisdiction over children at least age 16 who are alleged to have committed a violent crime, children at least age 14 charged with a capital crime, and children who have

previously been convicted as an adult of a felony and are subsequently alleged to have committed an act that would be a felony if committed by an adult. The juvenile court has exclusive original jurisdiction, but only for the purpose of waiving it, over a person age 21 or older who is alleged to have committed a delinquent act while a child.

A police record concerning a child is confidential and must be maintained separate from those of adults. Its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or as otherwise provided under provisions of the Education Article relating to arrests for reportable offenses. This does not prohibit access to and confidential use of the record by DJS or in the investigation and prosecution of the child by any law enforcement agency. This also does not prohibit a law enforcement agency, DJS, 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.

A court record pertaining to a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order upon a showing of good cause or as otherwise provided under provisions of the Education Article relating to arrests for reportable offenses. This does not prohibit access to and the use of the court record or fingerprints of a child under provisions governing CJIS in a proceeding 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 DJS. This does not generally prohibit access to and confidential use of the court record or fingerprints of a child under the applicable CJIS provisions or in an investigation and prosecution by a law enforcement agency.

The court record or fingerprints of a child may not be disclosed to a federal criminal justice agency or information center or any law enforcement agency other than a law enforcement agency of the State or a political subdivision of the State. Under specified circumstances, this 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 the individual is being charged as an adult.

The court, on its own motion or on petition, and for good cause, may order the court records of a child sealed, and, upon petition or on its own motion, must order them sealed after the child has reached age 21. If sealed, the records may not be opened, for any purpose, except by order of the court upon a showing of good cause.

These provisions do not prohibit access to or use of any juvenile record by the Division of Parole and Probation or the Maryland Parole Commission when DPP or the

commission is carrying out any statutory duties either at the direction of a court of competent jurisdiction, or when the commission is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

These provisions do not prohibit access to and use of any juvenile record by the Division of Correction when it is carrying out any of its statutory duties if the individual is committed to the custody of DOC and the record concerns an adjudication of delinquency.

These provisions do not prohibit access to or use of any juvenile record for criminal justice research purposes. A record used under this subsection may not contain the name of the individual to whom the record pertains, or any other identifying information which could reveal the individual's name.

Background: This departmental initiative seeks to maximize information sharing between DPSCS and DJS and, in so doing, improve general public safety. The agency believes that immediate access to juvenile records would better prepare DPP agents to supervise adult supervisees with juvenile records and juveniles tried and supervised as adults.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Juvenile Services, Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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mcp/jr

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