

HOUSE BILL 1382

E3

(91r0185)

ENROLLED BILL

—Judiciary/Judicial Proceedings—

Introduced by **Chair, Judiciary Committee (By Request - Departmental - Juvenile Services)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Law - Juvenile Records - Disclosure**

3 FOR the purpose of authorizing ~~a certain State or federal agency to access juvenile~~
4 ~~court records and fingerprints of a certain child; authorizing an officer or~~
5 ~~employee of any State or local government agency to access juvenile court~~
6 ~~records and fingerprints of a certain child for certain purposes and under~~
7 ~~certain circumstances; authorizing the Department of Juvenile Services to~~
8 ~~provide access to and the confidential use of a certain treatment plan of a child~~
9 ~~by an agency in the District of Columbia or a state agency in Virginia under~~
10 ~~certain circumstances; providing that a certain shared record may only provide~~
11 ~~certain information; providing that the Department of Juvenile Services is liable~~
12 ~~for an unauthorized release of a certain court record; requiring the Department~~
13 ~~of Juvenile Services to adopt certain regulations; establishing that certain~~
14 ~~provisions do not prohibit access to certain court records by the Department of~~

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.

Italics indicate opposite chamber / conference committee amendments.



1 Human Resources under certain circumstances; providing that the Department
 2 of Human Resources shall be liable for the unauthorized release of certain
 3 information; and generally relating to juvenile records.

4 BY repealing and reenacting, with amendments,
 5 Article – Courts and Judicial Proceedings
 6 Section 3–8A–27(b)
 7 Annotated Code of Maryland
 8 (2006 Replacement Volume and 2008 Supplement)

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

11 **Article – Courts and Judicial Proceedings**

12 3–8A–27.

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

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

21 (3) (i) Except as provided in subparagraph (ii) of this paragraph,
 22 this subsection does not prohibit access to and confidential use of the court record or
 23 fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure
 24 Article by:

25 ~~1. [the] THE Department of Juvenile Services, OR A~~
 26 ~~STATE OR FEDERAL AGENCY THAT PERFORMS THE SAME FUNCTIONS IN ITS~~
 27 ~~JURISDICTION AS DESCRIBED IN § 9-216(A) OF THE HUMAN SERVICES~~
 28 ~~ARTICLE;~~

29 ~~2. AN OFFICER OR EMPLOYEE OF ANY STATE OR~~
 30 ~~LOCAL GOVERNMENT AGENCY IF THE OFFICER OR EMPLOYEE IS ACTING IN AN~~
 31 ~~OFFICIAL CAPACITY AND THE DISCLOSURE IS NECESSARY TO ADMINISTER~~
 32 ~~PUBLIC ASSISTANCE, MEDICAL ASSISTANCE, SOCIAL SERVICES, JUVENILE~~
 33 ~~SERVICES, OR OTHER CHILD WELFARE SERVICES PROGRAMS; or~~

34 ~~3. [in] IN an investigation and prosecution by a law~~
 35 ~~enforcement agency.~~ the Department of Juvenile Services or in an investigation and
 36 prosecution by a law enforcement agency.

1 (ii) The court record or fingerprints of a child described under §§
 2 10–215(a)(21) and (22), 10–216, and 10–220 of the Criminal Procedure Article may not
 3 be disclosed to:

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

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

8 **“(4) (I) THE DEPARTMENT OF JUVENILE SERVICES MAY**
 9 **PROVIDE ACCESS TO AND THE CONFIDENTIAL USE OF A TREATMENT PLAN OF A**
 10 **CHILD DESCRIBED UNDER TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE**
 11 **ARTICLE BY AN AGENCY IN THE DISTRICT OF COLUMBIA OR A STATE AGENCY IN**
 12 **VIRGINIA, IF THE AGENCY:**

13 **1. PERFORMS THE SAME FUNCTIONS IN THE**
 14 **JURISDICTION OF THE AGENCY AS DESCRIBED IN § 9–216(A) OF THE HUMAN**
 15 **SERVICES ARTICLE; AND**

16 **2. HAS A RECIPROCAL AGREEMENT WITH THE STATE**
 17 **THAT PROVIDES THAT THE SPECIFIC INFORMATION TO BE SHARED BY THE**
 18 **STATE IS THE SAME TYPE OF INFORMATION THAT WILL BE SHARED BY THE**
 19 **AGENCY; AND**

20 **3. HAS CUSTODY OF THE CHILD.**

21 **(II) A RECORD THAT IS SHARED UNDER THIS PARAGRAPH**
 22 **MAY ONLY PROVIDE INFORMATION THAT IS RELEVANT TO THE SUPERVISION,**
 23 **CARE, AND TREATMENT OF THE CHILD.**

24 **(III) THE DEPARTMENT OF JUVENILE SERVICES SHALL BE**
 25 **LIABLE FOR AN UNAUTHORIZED RELEASE OF A COURT RECORD UNDER THIS**
 26 **PARAGRAPH.**

27 **(IV) THE DEPARTMENT OF JUVENILE SERVICES SHALL**
 28 **ADOPT REGULATIONS TO IMPLEMENT THIS PARAGRAPH.**

29 ~~(4)~~ **(5)** (i) This subsection does not prohibit access to and use of
 30 a court record by a judicial officer who is authorized under the Maryland Rules to
 31 determine a defendant’s eligibility for pretrial release, counsel for the defendant, or
 32 the State’s Attorney if:

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

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

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

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

11 ~~(5)~~ **(6)** (i) This subsection does not prohibit access to and
12 confidential use of a court record by the Baltimore City Health Department:

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

16 2. If the record concerns a child convicted of a crime or
17 adjudicated delinquent for an act that caused a death or near fatality; or

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

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

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

28 **(7) (I) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
29 **CONFIDENTIAL USE OF A COURT RECORD BY THE DEPARTMENT OF HUMAN**
30 **RESOURCES FOR THE PURPOSE OF CLAIMING FEDERAL TITLE IV-E FUNDS.**

31 **(II) THE DEPARTMENT OF HUMAN RESOURCES SHALL BE**
32 **LIABLE FOR THE UNAUTHORIZED RELEASE OF A COURT RECORD UNDER THIS**
33 **PARAGRAPH.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.