

CHAPTER 486

(House Bill 1382)

AN ACT concerning

Juvenile Law – Juvenile Records – Disclosure

FOR the purpose of authorizing ~~a certain State or federal agency to access juvenile court records and fingerprints of a certain child; authorizing an officer or employee of any State or local government agency to access juvenile court records and fingerprints of a certain child for certain purposes and under certain circumstances;~~ authorizing the Department of Juvenile Services to provide access to and the confidential use of a certain treatment plan of a child by an agency in the District of Columbia or a state agency in Virginia under certain circumstances; providing that a certain shared record may only provide certain information; providing that the Department of Juvenile Services is liable for an unauthorized release of a certain court record; requiring the Department of Juvenile Services to adopt certain regulations; establishing that certain provisions do not prohibit access to certain court records by the Department of Human Resources under certain circumstances; providing that the Department of Human Resources shall be liable for the unauthorized release of certain information; and generally relating to juvenile records.

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

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

Article – Courts and Judicial Proceedings

3–8A–27.

(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:

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

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

~~3. [in] IN an investigation and prosecution by a law enforcement agency, 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) THE DEPARTMENT OF JUVENILE SERVICES MAY PROVIDE ACCESS TO AND THE CONFIDENTIAL USE OF A TREATMENT PLAN OF A CHILD DESCRIBED UNDER TITLE 10, SUBTITLE 2 OF THE CRIMINAL PROCEDURE ARTICLE BY AN AGENCY IN THE DISTRICT OF COLUMBIA OR A STATE AGENCY IN VIRGINIA, IF THE AGENCY:

1. PERFORMS THE SAME FUNCTIONS IN THE JURISDICTION OF THE AGENCY AS DESCRIBED IN § 9-216(A) OF THE HUMAN SERVICES ARTICLE; AND

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

3. HAS CUSTODY OF THE CHILD.

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

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

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

~~(4)~~ **(5)** (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)~~ **(6)** (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 delinquent for an act that caused a death or near fatality; or

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.

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

(ii) THE DEPARTMENT OF HUMAN RESOURCES SHALL BE LIABLE FOR THE UNAUTHORIZED RELEASE OF A COURT RECORD UNDER THIS PARAGRAPH.

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

Approved by the Governor, May 19, 2009.