

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1382

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

Judiciary

Judicial Proceedings

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**Juvenile Law - Juvenile Records - Disclosure**

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This departmental bill creates additional exceptions to the general rule of confidentiality of juvenile records. The bill authorizes the Department of Juvenile Services (DJS) to provide access to and the confidential use of a treatment plan of a child by an agency in the District of Columbia or a State agency in Virginia if the agency: (1) performs the same functions in its jurisdiction as DJS does in Maryland; (2) has a reciprocity agreement with Maryland; and (3) has custody of the child. A shared record may only provide information that is relevant to the supervision, care, and treatment of the child. DJS is liable for an unauthorized release of a court record and must adopt regulations to implement the bill.

The bill also allows access to and confidential use of a court record by the Department of Human Resources (DHR) for the purpose of claiming Title IV-E funds. DHR is liable for the unauthorized release of a court record under the bill's provisions

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing budgeted resources. In addition, the bill may prevent the loss of \$14 million in federal funding by conforming Maryland law to federal requirements.

**Local Effect:** None.

**Small Business Effect:** The Department of Juvenile Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

**Current Law:** 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 in certain circumstances relating to notification of a local superintendent or nonpublic school principal upon the arrest of a child for specified offenses. This prohibition does not restrict access to and the use of court records or fingerprints in court proceedings 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. Subject to certain exceptions, the restriction also does not prohibit access to and confidential use of the court record or fingerprints of a child by DJS or in an investigation and prosecution by a law enforcement agency.

A public agency may not disclose information and records on children, youth, and families served by that agency to other public agencies serving the same youth, children, and families without written consent of an appropriate person of interest or another individual authorized to give consent. (*See* Human Services Article § 1-212.)

**Background:** DJS indicates that it is not currently permitted to disseminate information, absent a court order, to agencies in other jurisdictions that perform the functions of DJS. The bill will also allow information to be more easily shared with the Department of Human Resources.

**State Fiscal Effect:** Although the bill's provisions may lead to an increased number of requests by authorized agencies who will no longer need a court order to have access to the juvenile records, Legislative Services advises that the Judiciary and DJS can handle any increase in workload using existing budgeted resources.

Furthermore, the Department of Legislative Services learned in 2008 that the federal Department of Health and Human Services Administration for Children and Families had determined that although DHR is the designated single State agency administering or supervising the Title IV-E program, under State law, DHR was precluded from providing supervision of DJS' determination of Title IV-E eligibility and claims. Because Maryland was operating two separate Title IV-E programs (which contravenes federal rules) the federal government was disallowing federal Title IV-E claims made by DJS. At a recent meeting, DJS was also advised by the federal government that a provision allowing an officer or employee of another State or local government agency to access court records or fingerprints under certain circumstances should be added to the Maryland statute.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles County, Frederick County, Somerset County, Anne Arundel County, Baltimore County, Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Montgomery County, Department of Legislative Services

**Fiscal Note History:** First Reader - March 11, 2009  
mlm/kdm Revised - Updated Information - March 28, 2009  
Revised - Enrolled Bill - May 18, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Juvenile Law – Juvenile Records - Disclosure

BILL NUMBER: House Bill 1382

PREPARED BY: Department of Juvenile Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

  X   WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESS

OR

       WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND  
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.