

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 133

(Chair, Judiciary Committee)(By Request - Departmental
- Public Safety and Correctional Services)

Judiciary

Judicial Proceedings

**Courts and Judicial Proceedings - Juvenile Records - Access by the Division of
Pretrial Detention and Services**

This departmental bill establishes an additional exception to existing statutory provisions maintaining the confidentiality of juvenile records by authorizing the Division of Pretrial Detention and Services (DPDS) of the Department of Public Safety and Correctional Services to access juvenile court records 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 three years of the date the individual is charged as an adult.

Fiscal Summary

State Effect: None. Any increase in the workload of DPDS or the Department of Juvenile Services can be handled with existing resources.

Local Effect: None.

Small Business Effect: The Department of Public Safety and Correctional 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.)

Analysis

Current Law: In general, a police record or court record concerning a child is confidential and its contents may not be divulged, by subpoena or otherwise, except by court order. In addition to other exceptions specified in statute, these general provisions do not prohibit access to or use of any juvenile record by the Maryland Division of Parole and Probation or the Maryland Parole Commission (MPC) if they are carrying out any of their statutory duties at the direction of a court, or when MPC is carrying out any of its statutory duties, if the record concerns a charge or adjudication of delinquency.

The Division of Correction is also permitted access to and use of juvenile records when it is carrying out any of its statutory duties if (1) the individual to whom the record pertains is committed to its custody; and (2) the record concerns an adjudication of delinquency.

With respect to pretrial release, current law specifies that the general confidentiality provisions do 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 three years of the date the individual is charged as an adult.

Background: Individuals arrested and processed in Baltimore City are in the custody of the commissioner for DPDS, which is a State-operated function for the city. DPDS includes the Pretrial Release Services Program in Baltimore City, which makes recommendations to the court concerning an individual's fitness for home detention or other types of pretrial release and supervises defendants who have been released to the community to await trial. Since DPDS does not currently have access to the juvenile records of these individuals, limited information is being presented to the court due to the lack of the juvenile record. Therefore, judges are making release decisions without complete criminal history information for the individual in question. By enabling DPDS to access this information under very limited circumstances, the pretrial release program can provide more complete information to the court.

Additional Information

Prior Introductions: HB 426 of 2010, a similar bill, passed the House and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2011
ncs/kdm Revised - House Third Reader - March 22, 2011

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Courts and Judicial Proceedings – Juvenile Records – Access by the
Division of Pretrial Detention and Services

BILL NUMBER: HB133

PREPARED BY: Department of Public Safety and Correctional Services

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

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.