

# SENATE BILL 562

E3, E2

2lr2330  
CF 2lr0785

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By: **Senators Forehand, Colburn, Jacobs, Kelley, King, Klausmeier, Manno, Ramirez, and Stone**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Sex Crime Victims' Rights Act**

3 FOR the purpose of requiring the Department of Juvenile Services to disclose to a  
4 victim or victim's representative the home address, school, or place of  
5 employment of a child respondent on probation under certain circumstances;  
6 requiring a certain confinement unit to disclose to a victim or victim's  
7 representative the home address, school, or place of employment of a child  
8 respondent under certain circumstances; specifying that certain provisions of  
9 law concerning the confidentiality of juvenile records do not prohibit the  
10 disclosures authorized by this Act; and generally relating to victims' rights.

11 BY repealing and reenacting, with amendments,  
12 Article – Courts and Judicial Proceedings  
13 Section 3–8A–27  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Procedure  
18 Section 11–507 and 11–508  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2011 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 3–8A–27.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           (a)   (1)   A police record concerning a child is confidential and shall be  
2 maintained separate from those of adults. Its contents may not be divulged, by  
3 subpoena or otherwise, except by order of the court upon good cause shown or as  
4 otherwise provided in § 7–303 of the Education Article.

5                   (2)   This subsection does not prohibit:

6                           (i)   Access to and confidential use of the record by the  
7 Department of Juvenile Services or in the investigation and prosecution of the child by  
8 any law enforcement agency;

9                           (ii)   A law enforcement agency of the State or of a political  
10 subdivision of the State, the Department of Juvenile Services, or the criminal justice  
11 information system from including in the law enforcement computer information  
12 system information about an outstanding juvenile court ordered writ of attachment,  
13 for the sole purpose of apprehending a child named in the writ; or

14                           (iii)   A law enforcement agency of the State or of a political  
15 subdivision of the State from releasing to the public photographs and identifying  
16 information of a child who has escaped from a detention center for juveniles or a  
17 secure residential facility for juveniles, for the purposes of facilitating apprehension of  
18 the child and ensuring public safety.

19           (b)   (1)   A court record pertaining to a child is confidential and its contents  
20 may not be divulged, by subpoena or otherwise, except by order of the court upon good  
21 cause shown or as provided in §§ 7–303 and 22–309 of the Education Article.

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

27                           (3)   (i)   Except as provided in subparagraph (ii) of this paragraph,  
28 this subsection does not prohibit access to and confidential use of the court record or  
29 fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure  
30 Article by the Department of Juvenile Services or in an investigation and prosecution  
31 by a law enforcement agency.

32                                   (ii)   The court record or fingerprints of a child described under §§  
33 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not  
34 be disclosed to:

35                                                   1.   A federal criminal justice agency or information  
36 center; or

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

3                   (4) (i) The Department of Juvenile Services may provide access to  
4 and the confidential use of a treatment plan of a child described under Title 10,  
5 Subtitle 2 of the Criminal Procedure Article by an agency in the District of Columbia  
6 or a state agency in Virginia, if the agency:

7                   1. Performs the same functions in the jurisdiction of the  
8 agency as described in § 9–216(a) of the Human Services Article;

9                   2. Has a reciprocal agreement with the State that  
10 provides that the specific information to be shared by the State is the same type of  
11 information that will be shared by the agency; and

12                   3. Has custody of the child.

13                   (ii) A record that is shared under this paragraph may only  
14 provide information that is relevant to the supervision, care, and treatment of the  
15 child.

16                   (iii) The Department of Juvenile Services shall be liable for an  
17 unauthorized release of a court record under this paragraph.

18                   (iv) The Department of Juvenile Services shall adopt regulations  
19 to implement this paragraph.

20                   (5) (i) This subsection does not prohibit access to and use of a court  
21 record by a judicial officer who is authorized under the Maryland Rules to determine a  
22 defendant's eligibility for pretrial release, counsel for the defendant, the State's  
23 Attorney, or the Maryland Division of Pretrial Detention and Services if:

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

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

29                   3. The court record concerns an adjudication of  
30 delinquency that occurred within 3 years of the date the individual is charged as an  
31 adult.

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



1 11-507.

2 (A) The Department or the Department of Juvenile Services shall notify the  
3 victim or victim's representative of an alleged violation of a condition of probation  
4 whenever:

5 (1) a warrant, subpoena, or writ of attachment is issued for the alleged  
6 violation for a person who was convicted of a violent crime or who was adjudged to  
7 have committed a delinquent act that would be a violent crime if committed by an  
8 adult; and

9 (2) a victim of the crime or delinquent act or a victim's representative  
10 has submitted a written request to the Department for notification or has submitted a  
11 notification request form under § 11-104 of this title.

12 (B) **THE DEPARTMENT OF JUVENILE SERVICES SHALL DISCLOSE TO  
13 THE VICTIM OR VICTIM'S REPRESENTATIVE THE HOME ADDRESS, SCHOOL, OR  
14 PLACE OF EMPLOYMENT OF A CHILD RESPONDENT ON PROBATION IF:**

15 (1) **THE DELINQUENT ACT FOR WHICH THE CHILD RESPONDENT  
16 IS ON PROBATION IS A VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306, §  
17 3-307(A)(1) OR (2), § 3-602, OR § 11-303(B) OF THE CRIMINAL LAW ARTICLE;  
18 AND**

19 (2) **A VICTIM OF THE DELINQUENT ACT OR A VICTIM'S  
20 REPRESENTATIVE HAS SUBMITTED A WRITTEN REQUEST TO THE DEPARTMENT  
21 OF JUVENILE SERVICES FOR NOTIFICATION OR HAS SUBMITTED A  
22 NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS TITLE.**

23 11-508.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Commitment unit" means a unit that a court orders to retain  
26 custody of a defendant or a child respondent and that receives a notification request  
27 form under § 11-104(f)(1) or (g) of this title.

28 (3) "Release from confinement" means work release, home detention,  
29 or other administrative or statutorily authorized release of a defendant or child  
30 respondent from a confinement facility.

31 (4) "Witness" means a person who:

32 (i) knows of facts relating to a crime of violence or conspiracy or  
33 solicitation to commit a crime of violence; and

1 (ii) 1. makes a declaration under oath that is received as  
2 evidence for any purpose; or

3 2. has been served with a subpoena issued under the  
4 authority of a court of this or any other state or of the United States.

5 (b) This section applies to a victim or victim's representative who has  
6 submitted a notification request form under § 11-104 of this title.

7 (c) This section applies if a witness requests in writing that a commitment  
8 unit notify the witness in writing of the release from confinement of a defendant or  
9 child respondent.

10 (d) On receipt of a notification request form under § 11-104(f)(1) or (g) of this  
11 title or a written request from a witness for notification, a commitment unit, if  
12 practicable, shall notify the victim, victim's representative, or witness of:

13 (1) receipt of the notification request form;

14 (2) the date when the defendant or child respondent was placed in the  
15 custody of the commitment unit;

16 (3) how to change the address to receive notice for the victim, victim's  
17 representative, witness, or the person to receive notice for the victim; and

18 (4) how to elect not to receive future notices.

19 (e) **(1)** The commitment unit shall notify a victim, victim's representative,  
20 or witness, in advance if practicable, if any of the following events occur concerning  
21 the defendant or child respondent:

22 [(1)] **(I)** an escape;

23 [(2)] **(II)** a recapture;

24 [(3)] **(III)** a transfer to another commitment unit;

25 [(4)] **(IV)** a release from confinement and any conditions attached to  
26 the release; and

27 [(5)] **(V)** the death of the defendant or child respondent.

28 **(2) IF ANY OF THE EVENTS SPECIFIED IN PARAGRAPH (1) OF THIS**  
29 **SUBSECTION OCCUR, IN ADDITION TO THE NOTICE REQUIRED UNDER**  
30 **PARAGRAPH (1) OF THIS SUBSECTION, THE COMMITMENT UNIT SHALL**

1 DISCLOSE TO THE VICTIM OR VICTIM'S REPRESENTATIVE THE HOME ADDRESS,  
2 SCHOOL, AND PLACE OF EMPLOYMENT OF A CHILD RESPONDENT IF THE  
3 DELINQUENT ACT FOR WHICH THE CHILD RESPONDENT WAS CONFINED IS A  
4 VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306, § 3-307(A)(1) OR (2), § 3-602,  
5 OR § 11-303(B) OF THE CRIMINAL LAW ARTICLE.

6 (f) A commitment unit may not disclose to a defendant or child respondent  
7 the address or telephone number of a witness, victim, victim's representative, or  
8 person who receives notice for the victim.

9 (g) An elected public official, public employee, or public unit has the  
10 immunity described in §§ 5-302 and 5-522 of the Courts Article regarding civil  
11 liability for damages arising out of an action relating to this section, unless the official,  
12 employee, or unit acts with gross negligence or in bad faith.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2012.