

HOUSE BILL 169

E3

9lr0103

By: **Chair, Judiciary Committee (By Request – Departmental – Juvenile Services)**

Introduced and read first time: January 23, 2019

Assigned to: Judiciary

Committee Report: Favorable

House action: Adopted

Read second time: March 12, 2019

CHAPTER _____

1 AN ACT concerning

2 **State Advisory Board for Juvenile Services – Duties and Access to Records**

3 FOR the purpose of expanding the duties of the State Advisory Board for Juvenile Services
4 to include the examination and review of fatalities involving children under the
5 supervision of the Department of Juvenile Services for a certain purpose;
6 establishing that a prohibition against the disclosure of a court record pertaining to
7 a certain child does not prohibit access to and confidential use of the court record by
8 the State Advisory Board for Juvenile Services for certain purposes; and generally
9 relating to the State Advisory Board for Juvenile Services and juvenile records.

10 BY repealing and reenacting, with amendments,
11 Article – Human Services
12 Section 9–215
13 Annotated Code of Maryland
14 (2007 Volume and 2018 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Courts and Judicial Proceedings
17 Section 3–8A–27(b)
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2018 Supplement)

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

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.



Article – Human Services

9–215.

In addition to its other duties specified in this title, the State Advisory Board shall:

(1) consult with and advise the Secretary on:

(i) each aspect of the juvenile services program in the State;

(ii) the educational programs and services of the Department;

(iii) programs designed to divert children from the juvenile justice system; and

(iv) the treatment and programming needs of females in the juvenile justice system;

(2) recommend to the Secretary policies and programs to improve juvenile services in the State;

(3) participate in interpreting for the public the objectives of the Department; [and]

(4) participate in planning the development and use of available resources to meet the needs of the Department; AND

(5) EXAMINE AND REVIEW FATALITIES INVOLVING CHILDREN UNDER THE SUPERVISION OF THE DEPARTMENT FOR THE PURPOSE OF ADVISING THE SECRETARY ON POLICIES AND PROGRAMS TO PREVENT FATALITIES, INCLUDING:

(I) A DEATH CAUSED BY A CHILD UNDER THE SUPERVISION OF THE DEPARTMENT, IF THE CHILD IS CONVICTED OR ADJUDICATED FOR THE DEATH; AND

(II) THE DEATH OF A CHILD UNDER THE SUPERVISION OF THE DEPARTMENT.

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 and 22–309 of the Education Article.

1 (2) This subsection does not prohibit access to and the use of the court
2 record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal
3 Procedure Article in a proceeding in the court involving the child, by personnel of the court,
4 the State's Attorney, counsel for the child, a court-appointed special advocate for the child,
5 or authorized personnel of the Department of Juvenile Services.

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

11 (ii) The court record or fingerprints of a child described under §§
12 10-215(a)(20) and (21), 10-216, and 10-220 of the Criminal Procedure Article may not be
13 disclosed to:

- 14 1. A federal criminal justice agency or information center; or
- 15 2. Any law enforcement agency other than a law enforcement
16 agency of the State or a political subdivision of the State.

17 (4) (i) The Department of Juvenile Services may provide access to and
18 the confidential use of the court record of a child by an agency in the District of Columbia
19 or a state agency in Delaware, Pennsylvania, Virginia, or West Virginia, if the agency:

- 20 1. Performs the same functions in the jurisdiction of the
21 agency as described in § 9-216(a) of the Human Services Article; and
- 22 2. Has a reciprocal agreement with the State that provides
23 that the specific information to be shared by the State is the same type of information that
24 will be shared by the agency.

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

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

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

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

- 35 1. The individual who is the subject of the court record is

1 charged as an adult with an offense;

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

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

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

8 (6) (i) This subsection does not prohibit access to and confidential use
9 of a court record by the Department of Human Services or a local department of social
10 services for:

11 1. The purpose of claiming federal Title IV–B and Title IV–E
12 funds; or

13 2. If the Department of Human Services or a local
14 department of social services is providing services or care in coordination with the
15 Department of Juvenile Services to a child who is the subject of the record, a purpose
16 relevant to the provision of the services or care.

17 (ii) The Department of Human Services and local departments of
18 social services shall keep a court record obtained under this paragraph confidential in
19 accordance with the laws and policies applicable to the Department of Human Services and
20 local departments of social services.

21 (7) (i) This subsection does not prohibit access to and confidential use
22 of a court record by the Maryland Department of Health or a local health department if the
23 Maryland Department of Health or a local health department is providing treatment,
24 services, or care in coordination with the Department of Juvenile Services to a child who is
25 the subject of the record, for a purpose relevant to the provision of the treatment, services,
26 or care.

27 (ii) The Maryland Department of Health and local health
28 departments shall keep a court record obtained under this paragraph confidential in
29 accordance with the laws and policies applicable to the Maryland Department of Health
30 and local health departments.

31 (8) This subsection does not prohibit access to and confidential use of a
32 court record by the Baltimore City Health Department's Office of Youth Violence
33 Prevention:

34 (i) If the Baltimore City Health Department's Office of Youth
35 Violence Prevention is providing treatment or care to a child who is the subject of the
36 record, for a purpose relevant to the provision of the treatment or care;

1 (ii) If the record concerns a child convicted of a crime or adjudicated
2 delinquent for an act that caused a death or near fatality; or

3 (iii) If the record concerns a victim of a crime of violence, as defined
4 in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the
5 purpose of developing appropriate programs and policies aimed at reducing violence
6 against children in Baltimore City.

7 (9) This subsection does not prohibit access to and confidential use of a
8 court record by the Baltimore City Mayor’s Office on Criminal Justice if the Baltimore City
9 Mayor’s Office on Criminal Justice is providing programs and services in conjunction with
10 the Baltimore Police Department to a child who is the subject of the record, for a purpose
11 relevant to the provision of the programs and services and the development of a
12 comprehensive treatment plan.

13 (10) (i) The Baltimore City Health Department’s Office of Youth
14 Violence Prevention or the Baltimore City Mayor’s Office on Criminal Justice shall be liable
15 for the unauthorized release of a court record it accesses under this subsection.

16 (ii) Within 180 days after the Baltimore City Health Department’s
17 Office of Youth Violence Prevention or the Baltimore City Mayor’s Office on Criminal
18 Justice accesses a court record under this subsection, the Baltimore City Health
19 Department’s Office of Youth Violence Prevention or the Baltimore City Mayor’s Office on
20 Criminal Justice shall submit a report to the court detailing the purposes for which the
21 record was used.

22 **(11) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
23 **CONFIDENTIAL USE OF A COURT RECORD BY THE STATE ADVISORY BOARD FOR**
24 **JUVENILE SERVICES IF THE BOARD IS PERFORMING THE FUNCTIONS DESCRIBED**
25 **UNDER § 9–215(5) OF THE HUMAN SERVICES ARTICLE.**

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.