

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

A BILL ENTITLED

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:

22 **Article – Human Services**

23 9–215.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (1) consult with and advise the Secretary on:
- 2 (i) each aspect of the juvenile services program in the State;
- 3 (ii) the educational programs and services of the Department;
- 4 (iii) programs designed to divert children from the juvenile justice
5 system; and
- 6 (iv) the treatment and programming needs of females in the juvenile
7 justice system;
- 8 (2) recommend to the Secretary policies and programs to improve juvenile
9 services in the State;
- 10 (3) participate in interpreting for the public the objectives of the
11 Department; [and]
- 12 (4) participate in planning the development and use of available resources
13 to meet the needs of the Department; AND

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

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

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

22 **Article – Courts and Judicial Proceedings**

23 3–8A–27.

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

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

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

6 (ii) The court record or fingerprints of a child described under §§
7 10–215(a)(20) and (21), 10–216, and 10–220 of the Criminal Procedure Article may not be
8 disclosed to:

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

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

- 15 1. Performs the same functions in the jurisdiction of the
16 agency as described in § 9–216(a) of the Human Services Article; and
17 2. Has a reciprocal agreement with the State that provides
18 that the specific information to be shared by the State is the same type of information that
19 will be shared by the agency.

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

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

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

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

- 30 1. The individual who is the subject of the court record is
31 charged as an adult with an offense;
32 2. The access to and use of the court record is strictly limited
33 for the purpose of determining the defendant’s eligibility for pretrial release; and
34 3. The court record concerns an adjudication of delinquency

1 that occurred within 3 years of the date the individual is charged as an adult.

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

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

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

9 2. If the Department of Human Services or a local
10 department of social services is providing services or care in coordination with the
11 Department of Juvenile Services to a child who is the subject of the record, a purpose
12 relevant to the provision of the services or care.

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

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

23 (ii) The Maryland Department of Health and local health
24 departments shall keep a court record obtained under this paragraph confidential in
25 accordance with the laws and policies applicable to the Maryland Department of Health
26 and local health departments.

27 (8) This subsection does not prohibit access to and confidential use of a
28 court record by the Baltimore City Health Department’s Office of Youth Violence
29 Prevention:

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

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

35 (iii) If the record concerns a victim of a crime of violence, as defined
36 in § 14–101 of the Criminal Law Article, who is a child residing in Baltimore City, for the

1 purpose of developing appropriate programs and policies aimed at reducing violence
2 against children in Baltimore City.

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

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

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

18 **(11) THIS SUBSECTION DOES NOT PROHIBIT ACCESS TO AND**
19 **CONFIDENTIAL USE OF A COURT RECORD BY THE STATE ADVISORY BOARD FOR**
20 **JUVENILE SERVICES IF THE BOARD IS PERFORMING THE FUNCTIONS DESCRIBED**
21 **UNDER § 9-215(5) OF THE HUMAN SERVICES ARTICLE.**

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