

Chapter 271

(House Bill 169)

AN ACT concerning

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

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

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

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

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

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.

(2) This subsection does not prohibit access to and the use of the court record or fingerprints of a child described under Title 10, Subtitle 2 of the Criminal Procedure Article in a proceeding in the court 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 the Department of Juvenile Services.

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

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

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

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

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

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

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

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

(5) (i) This subsection does 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, the State's Attorney, or the Maryland Division of Pretrial Detention and Services 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 3 years of the date the individual is charged as an adult.

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

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

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

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

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

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

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

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

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

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

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

(9) This subsection does not prohibit access to and confidential use of a court record by the Baltimore City Mayor’s Office on Criminal Justice if the Baltimore City Mayor’s Office on Criminal Justice is providing programs and services in conjunction with the Baltimore Police Department to a child who is the subject of the record, for a purpose

relevant to the provision of the programs and services and the development of a comprehensive treatment plan.

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

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

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

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

Approved by the Governor, April 30, 2019.