
By: Senators Pica and Stone

Introduced and read first time: January 31, 1996

Assigned to: Judicial Proceedings

Committee Report: Favorable

Senate action: Adopted

Read second time: March 12, 1996

CHAPTER ____

1 AN ACT concerning

2 **Child Abuse and Neglect - Failure to Report - Penalties**

3 FOR the purpose of making it a misdemeanor for certain individuals required to report
4 suspected child abuse or neglect to knowingly fail to make a report; providing a
5 certain penalty; and generally relating to penalties for knowingly failing to report
6 suspected child abuse or neglect.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-704 and 5-705
10 Annotated Code of Maryland
11 (1991 Replacement Volume and 1995 Supplement)

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

14 **Article - Family Law**

15 5-704.

16 (a) Notwithstanding any other provision of law, including any law onprivileged
17 communications, each health practitioner, police officer, or educator or human service
18 worker, acting in a professional capacity, who has reason to believe that a child has been
19 subjected to:

20 (1) (i) abuse, shall notify the local department or the appropriate law
21 enforcement agency; or

22 (ii) neglect, shall notify the local department; and

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1 (2) if acting as a staff member of a hospital, public health agency, child care
2 institution, juvenile detention center, school, or similar institution, immediately notify
3 and give all information required by this section to the head of the institution or the
4 designee of the head.

5 (b) (1) An individual who notifies the appropriate authorities undersubsection
6 (a) of this section shall make:

7 (i) an oral report, by telephone or direct communication, as soon as
8 possible:

9 1. to the local department or appropriate law enforcement
10 agency if the person has reason to believe that the child has been subjected to abuse; or

11 2. to the local department if the person has reason to believe
12 that the child has been subjected to neglect; and

13 (ii) a written report:

14 1. to the local department not later than 48 hours after [the
15 contact, examination, attention, or treatment that caused the individual to believe that
16 the child had been subjected to abuse or neglect] MAKING THE ORAL REPORT; and

17 2. with a copy to the local State's Attorney if the individual has
18 reason to believe that the child has been subjected to abuse.

19 (2) (i) An agency to which an oral report of suspected abuse is made
20 under paragraph (1) of this subsection shall immediately notify the other agency.

21 (ii) This paragraph does not prohibit a local department and an
22 appropriate law enforcement agency from agreeing to cooperative arrangements.

23 (c) Insofar as is reasonably possible, an individual who makes a report under this
24 section shall include in the report the following information:

25 (1) the name, age, and home address of the child;

26 (2) the name and home address of the child's parent or other person who is
27 responsible for the child's care;

28 (3) the whereabouts of the child;

29 (4) the nature and extent of the abuse or neglect of the child, including any
30 evidence or information available to the reporter concerning possible previous instances
31 of abuse or neglect; and

32 (5) any other information that would help to determine:

33 (i) the cause of the suspected abuse or neglect; and

34 (ii) the identity of any individual responsible for the abuse or neglect.

35 (D) ANY PERSON WHO IS REQUIRED TO PROVIDE NOTICE UNDER
36 SUBSECTION (A) OF THIS SECTION OR REQUIRED TO MAKE A REPORT UNDER
37 SUBSECTION (B) OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE

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1 REQUIRED NOTICE OR MAKE THE REQUIRED REPORT IS GUILTY OF A
2 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

3 5-705.

4 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,
5 notwithstanding any other provision of law, including a law on privileged communications,
6 a person other than a health practitioner, police officer, or educator or human service
7 worker who has reason to believe that a child has been subjected to abuse or neglect shall:

8 (i) if the person has reason to believe the child has been subjected to
9 abuse, notify the local department or the appropriate law enforcement agency; or

10 (ii) if the person has reason to believe the child has been subjected to
11 neglect, notify the local department.

12 (2) A person is not required to provide notice under paragraph (1) of this
13 subsection:

14 (i) in violation of the privilege described under § 9-108 of the Courts
15 Article;

16 (ii) if the notice would disclose matter communicated in confidence by
17 a client to the client's attorney or other information relating to the representation of the
18 client; or

19 (iii) in violation of any constitutional right to assistance of counsel.

20 (3) A minister of the gospel, clergyman, or priest of an established church of
21 any denomination is not required to provide notice under paragraph (1) of this subsection
22 if the notice would disclose matter in relation to any communication described in § 9-111
23 of the Courts Article and:

24 (i) the communication was made to the minister, clergyman, or priest
25 in a professional character in the course of discipline enjoined by the church to which the
26 minister, clergyman, or priest belongs; and

27 (ii) the minister, clergyman, or priest is bound to maintain the
28 confidentiality of that communication under canon law, church doctrine, or practice.

29 (b) (1) An agency to which a report of suspected abuse is made under
30 subsection (a) of this section shall immediately notify the other agency.

31 (2) This subsection does not prohibit a local department and an appropriate
32 law enforcement agency from agreeing to cooperative arrangements.

33 (c) A report made under subsection (a) of this section may be oral or in writing.

34 (d) (1) To the extent possible, a report made under subsection (a) of this
35 section shall include the information required by § 5-704(c) of this subtitle.

36 (2) A report made under subsection (a) of this section shall be regarded as
37 a report within the provisions of this subtitle, whether or not the report contains all of the
38 information required by § 5-704(c) of this subtitle.

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1 (E) ANY PERSON WHO IS REQUIRED TO MAKE A REPORT UNDER SUBSECTION
2 (A) OF THIS SECTION AND WHO KNOWINGLY FAILS TO MAKE THE REQUIRED
3 REPORT IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE
4 NOT EXCEEDING \$1,000.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1996.