

HOUSE BILL 550

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D4

2003 Regular Session
(31r0417)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Menes and Hixson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 308

1 AN ACT concerning

2 **Family Law - Reporting of Out-of-State Child Abuse and Neglect and**
3 **Neglect**

4 FOR the purpose of requiring the reporting of certain out-of-state child abuse and
5 neglect ~~and neglect~~ under certain circumstances; specifying the procedures for
6 the reporting of certain out-of-state child abuse and neglect ~~and neglect~~;
7 ~~establishing that a certain person is not required to report certain out-of-state~~
8 ~~child abuse under certain circumstances~~; requiring a local department of social
9 services to forward a report of certain out-of-state child abuse or neglect ~~or~~
10 ~~neglect~~ to a certain out-of-state agency under certain circumstances; specifying
11 the applicability of certain provisions of law; establishing that certain reporting
12 requirements apply only to certain persons in this State; providing certain
13 immunity for certain persons under certain circumstances; establishing that
14 certain investigation procedures apply only to certain in-state child abuse or
15 neglect; requiring a local department that receives a report concerning certain
16 ~~out-of-state~~ child abuse or neglect to take certain actions; making certain
17 clarifying and conforming changes; defining a certain term; and generally

1 relating to child abuse and neglect.

2 BY repealing and reenacting, with amendments,

3 Article - Courts and Judicial Proceedings

4 Section 5-620

5 Annotated Code of Maryland

6 (2002 Replacement Volume)

7 BY repealing and reenacting, without amendments,

8 Article - Family Law

9 Section 5-701(b), (e), (o), (r), and (u) and 5-707(a)

10 Annotated Code of Maryland

11 (1999 Replacement Volume and 2002 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article - Family Law

14 Section 5-701(a), 5-703, 5-704, 5-705, 5-706, and 5-708

15 Annotated Code of Maryland

16 (1999 Replacement Volume and 2002 Supplement)

17 BY adding to

18 Article - Family Law

19 Section 5-705.1

20 Annotated Code of Maryland

21 (1999 Replacement Volume and 2002 Supplement)

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

24 **Article - Courts and Judicial Proceedings**

25 5-620.

26 Any person who in good faith makes or participates in making a report of abuse
27 or neglect under § 5-704 [or], § 5-705, OR § 5-705.1 of the Family Law Article or
28 participates in an investigation or a resulting judicial proceeding is immune from any
29 civil liability or criminal penalty that would otherwise result from making or
30 participating in a report of abuse or neglect or participating in an investigation or a
31 resulting judicial proceeding.

32 **Article - Family Law**

33 5-701.

34 (a) [In] EXCEPT AS OTHERWISE PROVIDED IN § 5-705.1 OF THIS SUBTITLE, IN
35 this subtitle the following words have the meanings indicated.

1 (b) "Abuse" means:

2 (1) the physical or mental injury of a child by any parent or other person
3 who has permanent or temporary care or custody or responsibility for supervision of a
4 child, or by any household or family member, under circumstances that indicate that
5 the child's health or welfare is harmed or at substantial risk of being harmed; or

6 (2) sexual abuse of a child, whether physical injuries are sustained or
7 not.

8 (e) "Child" means any individual under the age of 18 years.

9 (o) "Local department" means the department of social services that has
10 jurisdiction in the county:

11 (1) where the allegedly abused or neglected child lives; or

12 (2) if different, where the abuse or neglect is alleged to have taken place.

13 (r) "Neglect" means the leaving of a child unattended or other failure to give
14 proper care and attention to a child by any parent or other person who has permanent
15 or temporary care or custody or responsibility for supervision of the child under
16 circumstances that indicate:

17 (1) that the child's health or welfare is harmed or placed at substantial
18 risk of harm; or

19 (2) mental injury to the child or a substantial risk of mental injury.

20 (u) "Report" means an allegation of abuse or neglect, made or received under
21 this subtitle.

22 5-703.

23 (A) The provisions of this subtitle are in addition to and not in substitution for
24 the provisions of Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article.

25 (B) EXCEPT AS OTHERWISE PROVIDED IN § 5-705.1 OF THIS SUBTITLE, THE
26 PROVISIONS OF THIS SUBTITLE APPLY ONLY TO:

27 (1) SUSPECTED ABUSE OR NEGLECT THAT IS ALLEGED TO HAVE
28 OCCURRED IN THIS STATE; AND

29 (2) SUSPECTED ABUSE OR NEGLECT OF A CHILD WHO LIVES IN THIS
30 STATE, REGARDLESS OF WHERE THE SUSPECTED ABUSE OR NEGLECT IS ALLEGED
31 TO HAVE OCCURRED.

1 5-704.

2 (a) Notwithstanding any other provision of law, including any law on
3 privileged communications, each health practitioner, police officer, educator, or
4 human service worker, acting in a professional capacity IN THIS STATE:

5 (1) (i) who has reason to believe that a child has been subjected to
6 abuse, shall notify the local department or the appropriate law enforcement agency;
7 or

8 (ii) who has reason to believe that a child has been subjected to
9 neglect, shall notify the local department; and

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

14 (b) (1) An individual who notifies the appropriate authorities under
15 subsection (a) of this section shall make:

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

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

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

23 (ii) a written report:

24 1. to the local department not later than 48 hours after the
25 contact, examination, attention, or treatment that caused the individual to believe
26 that the child had been subjected to abuse or neglect; and

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

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

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

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

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

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

3 (3) the whereabouts of the child;

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

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

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

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

11 5-705.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 5-705.1.

15 (A) IN THIS SECTION, "LOCAL DEPARTMENT" MEANS A DEPARTMENT OF
16 SOCIAL SERVICES FOR A COUNTY IN THIS STATE.

17 (B) THE FOLLOWING PROVISIONS OF THIS SUBTITLE SHALL APPLY TO THE
18 REPORTING OF SUSPECTED ABUSE OR NEGLECT ~~OR NEGLECT~~ UNDER THIS SECTION:

19 (1) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE
20 DEFINITIONS SET FORTH IN § 5-701 OF THIS SUBTITLE;

21 (2) THE PROVISIONS RELATING TO THE CONFIDENTIALITY OF REPORTS
22 SPECIFIED IN § 5-707(A)(1) AND (2) OF THIS SUBTITLE; AND

23 (3) THE PROVISIONS RELATING TO IMMUNITY FROM CIVIL LIABILITY OR
24 CRIMINAL PENALTY SPECIFIED IN § 5-708 OF THIS SUBTITLE.

25 (C) (1) ~~IF THE EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,~~
26 IF SUSPECTED ABUSE OR NEGLECT ~~OR NEGLECT~~ IS ALLEGED TO HAVE OCCURRED
27 OUTSIDE OF THIS STATE AND THE VICTIM IS CURRENTLY A CHILD WHO LIVES
28 OUTSIDE OF THIS STATE, A PERSON WHO WOULD BE REQUIRED TO REPORT
29 SUSPECTED ABUSE OR NEGLECT ~~OR NEGLECT~~ UNDER THE PROVISIONS OF § 5-704 OR
30 § 5-705 OF THIS SUBTITLE SHALL REPORT THE SUSPECTED ABUSE OR NEGLECT ~~OR~~
31 ~~NEGLECT~~ TO ANY LOCAL DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (2) OF
32 THIS SUBSECTION.

33 (2) A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE SHALL MAKE:

34 (I) AN ORAL REPORT, BY TELEPHONE OR DIRECT
35 COMMUNICATION, AS SOON AS POSSIBLE; AND

1 (II) A WRITTEN REPORT NOT LATER THAN 48 HOURS AFTER THE
2 CONTACT, EXAMINATION, ATTENTION, OR TREATMENT THAT CAUSED THE PERSON
3 TO BELIEVE THAT THE CHILD HAD BEEN SUBJECTED TO ABUSE OR NEGLECT OR
4 NEGLECT.

5 (3) A PERSON DESCRIBED IN § 5-705 OF THIS SUBTITLE SHALL MAKE AN
6 ORAL OR A WRITTEN REPORT.

7 (4) TO THE EXTENT POSSIBLE, A REPORT UNDER THIS SUBSECTION
8 SHALL INCLUDE THE INFORMATION SPECIFIED IN § 5-704(C) OF THIS SUBTITLE.

9 ~~(D) IF A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE DISCOVERS ABUSE~~
10 ~~AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION DURING THE COURSE OF~~
11 ~~THERAPY, AND THE PERSON CAN DOCUMENT IN THE MEDICAL RECORD THAT A~~
12 ~~REPORT PREVIOUSLY HAS BEEN MADE TO THE APPROPRIATE AUTHORITY IN THE~~
13 ~~STATE IN WHICH THE CHILD LIVES, THE PERSON IS NOT REQUIRED TO REPORT THE~~
14 ~~ABUSE.~~

15 ~~(D)~~ ~~(E)~~ (D) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE
16 OR NEGLECT ~~OR NEGLECT~~ UNDER THIS SECTION, THE LOCAL DEPARTMENT SHALL
17 FORWARD THE REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF THIS STATE
18 THAT IS AUTHORIZED TO RECEIVE AND INVESTIGATE REPORTS OF SUSPECTED
19 ABUSE OR NEGLECT ~~OR NEGLECT~~.

20 5-706.

21 (a) Promptly after receiving a report of suspected abuse or neglect OF A CHILD
22 WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED IN THIS STATE:

23 (1) the local department or the appropriate law enforcement agency, or
24 both, if jointly agreed on, shall make a thorough investigation of a report of suspected
25 abuse to protect the health, safety, and welfare of the child or children; or

26 (2) the local department shall make a thorough investigation of a report
27 of suspected neglect to protect the health, safety, and welfare of the child or children.

28 (b) Within 24 hours after receiving a report of suspected physical or sexual
29 abuse OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED
30 IN THIS STATE, and within 5 days after receiving a report of suspected neglect or
31 suspected mental injury OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO
32 HAVE OCCURRED IN THIS STATE, the local department or the appropriate law
33 enforcement agency shall:

34 (1) see the child;

35 (2) attempt to have an on-site interview with the child's caretaker;

36 (3) decide on the safety of the child, wherever the child is, and of other
37 children in the household; and

1 (4) decide on the safety of other children in the care or custody of the
2 alleged abuser.

3 (c) The investigation UNDER SUBSECTION (B) OF THIS SECTION shall include:

4 (1) a determination of the nature, extent, and cause of the abuse or
5 neglect, if any;

6 (2) if mental injury is suspected, an assessment by two of the following:

7 (i) a licensed physician, as defined in § 14-101 of the Health
8 Occupations Article;

9 (ii) a licensed psychologist, as defined in § 18-101 of the Health
10 Occupations Article; or

11 (iii) a licensed social worker, as defined in § 19-101 of the Health
12 Occupations Article; and

13 (3) if the suspected abuse or neglect is verified:

14 (i) a determination of the identity of the person or persons
15 responsible for the abuse or neglect;

16 (ii) a determination of the name, age, and condition of any other
17 child in the household;

18 (iii) an evaluation of the parents and the home environment;

19 (iv) a determination of any other pertinent facts or matters; and

20 (v) a determination of any needed services.

21 (d) On request by the local department, the local State's Attorney shall assist
22 in [the] AN investigation UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

23 (e) The local department, the appropriate law enforcement agencies, the
24 State's Attorney within each county and Baltimore City, the department's office
25 responsible for child care regulation, and the local health officer, shall enter into a
26 written agreement that specifies standard operating procedures for the investigation
27 UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION and prosecution of reported cases
28 of suspected abuse.

29 (f) (1) The agencies responsible for investigating reported cases of suspected
30 sexual abuse, including the local department, the appropriate law enforcement
31 agencies, and the local State's Attorney, shall implement a joint investigation
32 procedure for conducting joint investigations of sexual abuse UNDER SUBSECTIONS
33 (B) AND (C) OF THIS SECTION.

34 (2) The joint investigation procedure shall:

- 1 (i) include appropriate techniques for expediting validation of
2 sexual abuse complaints;
- 3 (ii) include investigation techniques designed to:
- 4 1. decrease the potential for physical harm to the child; and
- 5 2. decrease any trauma experienced by the child in the
6 investigation and prosecution of the case; and
- 7 (iii) establish an ongoing training program for personnel involved in
8 the investigation or prosecution of sexual abuse cases.

9 (g) (1) To the extent possible, an investigation under [this section]
10 SUBSECTIONS (B) AND (C) OF THIS SECTION shall be completed within 10 days after
11 receipt of the first notice of the suspected abuse or neglect by the local department or
12 law enforcement agencies.

13 (2) An investigation UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION
14 which is not completed within 30 days shall be completed within 60 days of receipt of
15 the first notice of the suspected abuse or neglect.

16 (h) Within 10 days after the local department or law enforcement agency
17 receives the first notice of suspected abuse OF A CHILD WHO LIVES IN THIS STATE
18 THAT IS ALLEGED TO HAVE OCCURRED IN THIS STATE, the local department or law
19 enforcement agency shall report to the local State's Attorney the preliminary findings
20 of the investigation.

21 (i) Within 5 business days after completion of the investigation of suspected
22 abuse OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED
23 IN THIS STATE, the local department and the appropriate law enforcement agency, if
24 that agency participated in the investigation, shall make a complete written report of
25 its findings to the local State's Attorney.

26 (J) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE OR
27 NEGLECT OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE
28 OCCURRED OUTSIDE OF THIS STATE, THE LOCAL DEPARTMENT SHALL:

29 (1) FORWARD THE REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF
30 THIS STATE THAT IS AUTHORIZED TO RECEIVE AND INVESTIGATE REPORTS OF
31 SUSPECTED ABUSE OR NEGLECT;

32 (2) COOPERATE TO THE EXTENT REQUESTED WITH THE OUT-OF-STATE
33 AGENCY INVESTIGATING THE REPORT; AND

34 (3) IF DETERMINED APPROPRIATE BY THE LOCAL DEPARTMENT:

35 (I) INTERVIEW THE CHILD TO ASSESS WHETHER THE CHILD IS
36 SAFE; AND

1 (II) PROVIDE SERVICES TO THE CHILD AND THE CHILD'S FAMILY.

2 5-707.

3 (a) Subject to federal and State law, the Administration shall provide by
4 regulation adopted in accordance with Title 10, Subtitle 1 of the State Government
5 Article:

6 (1) procedures for protecting the confidentiality of reports and records
7 made in accordance with this subtitle;

8 (2) conditions under which information may be released;

9 (3) conditions for determining in cases whether abuse, neglect, or sexual
10 abuse is indicated, ruled out, or unsubstantiated; and

11 (4) procedures for the appeal processes provided in this subtitle.

12 5-708.

13 Any person who makes or participates in making a report of abuse or neglect
14 under § 5-704 [or], § 5-705, OR § 5-705.1 of this subtitle or participates in an
15 investigation or a resulting judicial proceeding shall have the immunity described
16 under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or
17 criminal penalty.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 2003.