

HOUSE BILL 876

D4

3lr2534

By: **Delegates Dumais and Rosenberg**
Introduced and read first time: February 7, 2013
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse – Failure to Report – Civil Penalty, Fund, and Task Force**

3 FOR the purpose of authorizing the Attorney General to institute a civil action against
4 certain individuals acting in a professional capacity who fail to report child
5 abuse or neglect under certain circumstances; establishing a certain civil
6 penalty for each violation; requiring a civil penalty collected under this Act to be
7 deposited in the Child Abuse Prevention Fund; establishing that the civil
8 penalty established under this Act is in addition to any other penalty provided
9 by law; providing for the construction of certain provisions of this Act; requiring
10 the Attorney General to report a certain violation to a certain board or agency
11 under certain circumstances for certain purposes; establishing the Child Abuse
12 Prevention Fund; requiring the Governor's Office of Crime Control and
13 Prevention to administer the Fund; specifying the purpose of the Fund;
14 establishing that the Fund is a special, nonlapsing fund, not subject to certain
15 provisions of law; requiring the State Treasurer to hold the Fund and the
16 Comptroller to account for the Fund; specifying the contents of the Fund;
17 providing for the investment of money in the Fund; establishing that money
18 expended from the Fund is not intended to take the place of certain other
19 funding; establishing the Task Force to Study Training for School Employees
20 and Volunteers on the Prevention, Identification, and Reporting of Child Sexual
21 Abuse; providing for the composition, chair, and staffing of the Task Force;
22 prohibiting a member of the Task Force from receiving certain compensation,
23 but authorizing the reimbursement of certain expenses; requiring the Task
24 Force to study and make recommendations regarding certain matters; requiring
25 the Task Force to report its findings and recommendations to the Governor and
26 to certain committees of the General Assembly on or before a certain date;
27 defining a certain term; providing for the effective dates of this Act; providing
28 for the termination of certain provisions of this Act; and generally relating to
29 child abuse and neglect.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Family Law
2 Section 5–704
3 Annotated Code of Maryland
4 (2012 Replacement Volume)

5 BY adding to
6 Article – Family Law
7 Section 5–704.2
8 Annotated Code of Maryland
9 (2012 Replacement Volume)

10 BY repealing and reenacting, with amendments,
11 Article – State Finance and Procurement
12 Section 6–226(a)
13 Annotated Code of Maryland
14 (2009 Replacement Volume and 2012 Supplement)

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

17 **Article – Family Law**

18 5–704.

19 (a) Notwithstanding any other provision of law, including any law on
20 privileged communications, each health practitioner, police officer, educator, or human
21 service worker, acting in a professional capacity in this State:

22 (1) who has reason to believe that a child has been subjected to abuse
23 or neglect, shall notify the local department or the appropriate law enforcement
24 agency; and

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

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

31 (i) an oral report, by telephone or direct communication, as
32 soon as possible to the local department or appropriate law enforcement agency; and

33 (ii) a written report:

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

4 2. with a copy to the local State's Attorney.

5 (2) (i) An agency to which an oral report of suspected abuse or
6 neglect is made under paragraph (1) of this subsection shall immediately notify the
7 other agency.

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

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

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

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

15 (3) the whereabouts of the child;

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

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

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

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

23 **5-704.2.**

24 **(A) (1) THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION**
25 **AGAINST A PERSON WHO VIOLATES § 5-704 OF THIS SUBTITLE BY FAILING TO**
26 **REPORT ABUSE OR NEGLECT OF A CHILD, TO RECOVER FOR THE STATE A CIVIL**
27 **PENALTY NOT EXCEEDING \$100,000 FOR EACH VIOLATION IF:**

28 **(I) A CHILD COMMUNICATED DIRECTLY WITH THE PERSON**
29 **REGARDING THE CHILD'S ABUSE OR NEGLECT AND THE CHILD WAS UNDER THE**
30 **AGE OF 18 YEARS WHEN THE COMMUNICATION OCCURRED; OR**

31 **(II) THE PERSON OBSERVED THE ABUSE OR NEGLECT.**

1 **(2) A CIVIL PENALTY COLLECTED UNDER THIS SUBSECTION**
2 **SHALL BE DEPOSITED IN THE CHILD ABUSE PREVENTION FUND CREATED**
3 **UNDER SUBSECTION (C) OF THIS SECTION.**

4 **(3) THE CIVIL PENALTY ESTABLISHED UNDER THIS SUBSECTION**
5 **IS IN ADDITION TO ANY OTHER PENALTY PROVIDED BY LAW.**

6 **(4) THIS SUBSECTION MAY NOT BE CONSTRUED TO LIMIT:**

7 **(I) A VICTIM'S RIGHT TO RESTITUTION UNDER TITLE 11,**
8 **SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE; OR**

9 **(II) ANY OTHER CAUSE OF ACTION AGAINST A PERSON WHO**
10 **VIOLATES § 5-704 OF THIS SUBTITLE.**

11 **(B) IF THE ATTORNEY GENERAL INSTITUTES A CIVIL ACTION UNDER**
12 **SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL SHALL REPORT**
13 **THE VIOLATION TO THE APPROPRIATE BOARD OR AGENCY THAT LICENSES,**
14 **CERTIFIES, OR REGISTERS A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE**
15 **FOR APPROPRIATE ACTION AS PROVIDED BY LAW.**

16 **(C) (1) IN THIS SUBSECTION, "FUND" MEANS THE CHILD ABUSE**
17 **PREVENTION FUND.**

18 **(2) THERE IS A CHILD ABUSE PREVENTION FUND.**

19 **(3) THE GOVERNOR'S OFFICE OF CRIME CONTROL AND**
20 **PREVENTION SHALL ADMINISTER THE FUND.**

21 **(4) (I) THE FUND SHALL BE USED TO PROVIDE GRANTS TO**
22 **PROGRAMS FOR THE PURPOSE OF PREVENTING ABUSE AND NEGLECT.**

23 **(II) THE GRANTS:**

24 **1. SHALL BE EQUITABLY DISTRIBUTED**
25 **THROUGHOUT THE STATE;**

26 **2. SHALL BE MADE TO RECIPIENTS WHO HAVE**
27 **SPECIALIZED EXPERTISE IN RESPONDING TO VICTIMS OF ABUSE OR NEGLECT;**
28 **AND**

1 **3. MAY BE MADE TO PRIVATE NONPROFIT**
2 **ORGANIZATIONS, PUBLIC PROGRAMS, OR PARTNERSHIPS AMONG THESE**
3 **ENTITIES.**

4 **(5) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS**
5 **NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT**
6 **ARTICLE.**

7 **(II) THE STATE TREASURER SHALL HOLD THE FUND**
8 **SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

9 **(6) THE FUND CONSISTS OF:**

10 **(I) MONEY DEPOSITED IN THE FUND FROM THE CIVIL**
11 **PENALTY COLLECTED UNDER SUBSECTION (A) OF THIS SECTION;**

12 **(II) INVESTMENT EARNINGS OF THE FUND; AND**

13 **(III) ANY OTHER MONEY FROM ANY OTHER SOURCE**
14 **ACCEPTED FOR THE BENEFIT OF THE FUND.**

15 **(7) THE STATE TREASURER SHALL:**

16 **(I) INVEST AND REINVEST THE FUND IN THE SAME MANNER**
17 **AS OTHER STATE FUNDS; AND**

18 **(II) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.**

19 **(8) MONEY EXPENDED FROM THE FUND TO PROVIDE GRANTS TO**
20 **PROGRAMS FOR THE PURPOSE OF PREVENTING CHILD ABUSE OR NEGLECT IS**
21 **SUPPLEMENTAL TO, AND IS NOT INTENDED TO TAKE THE PLACE OF, FUNDING**
22 **THAT OTHERWISE WOULD BE APPROPRIATED FOR THESE PROGRAMS.**

23 **Article – State Finance and Procurement**

24 6-226.

25 (a) (1) Except as otherwise specifically provided by law or by regulation of
26 the Treasurer, the Treasurer shall credit to the General Fund any interest on or other
27 income from State money that the Treasurer invests.

28 (2) (i) Notwithstanding any other provision of law, and unless
29 inconsistent with a federal law, grant agreement, or other federal requirement or with
30 the terms of a gift or settlement agreement, net interest on all State money allocated

1 by the State Treasurer under this section to special funds or accounts, and otherwise
2 entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue
3 to the General Fund of the State.

4 (ii) The provisions of subparagraph (i) of this paragraph do not
5 apply to the following funds:

- 6 and 1984;
- 7 1. Maryland Housing Loan Funds of 1976, 1978, 1979,
 - 8 2. Microsoft Cost Share Fund;
 - 9 3. Subsequent Injury Fund;
 - 10 4. Uninsured Employers' Fund;
 - 11 5. State Agency Loan Program Fund;
 - 12 6. Jane E. Lawton Conservation Loan Program;
 - 13 7. Energy Overcharge Restitution Fund;
 - 14 8. PEPCO/Connective Settlement Fund;
 - 15 9. Baseball Capital Improvements Fund;
 - 16 10. State Victims of Crime Fund;
 - 17 11. Juvenile Accountability Incentive Block Grant Fund;
 - 18 12. Victim and Witness Protection and Relocation Fund;
 - 19 13. Unclaimed Restitution – Victims of Crime;
 - 20 14. Justice Assistance Grant;
 - 21 15. Byrne Justice Assistance Grant;
 - 22 16. Maryland Election Modernization Fund;
 - 23 17. Scriven Estate Fund;
 - 24 18. Volunteer Company Assistance Fund;
 - 25 19. Radoff Memorial Fund;

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9 administered by the Department of Housing and Community Development;
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12 and Economic Development;
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41. funds in the accounts of the University System of
 42. Maryland Prepaid College Trust Fund;
 43. Nurse Support Program Assistance Fund;
 44. funds in the accounts of the Baltimore City
 45. Education Trust Fund;
 46. Section 8 construction and administration funds
 47. MacArthur Grant Fund;
 48. all special funds within the Department of Business
 49. Maryland Water Quality Revolving Loan Fund;
 50. Maryland Drinking Water Revolving Loan Fund;
 51. Bay Restoration Fund;
 52. Migratory Game Bird Fund;
 53. Deer Stamp Fund;
 54. Wildlife Habitat Incentive Fund;
 55. Fisheries Research and Development Fund;
 56. Strategic Energy Investment Fund;
 57. Criminal Injuries Compensation Fund;
 58. 50% of the interest from the 9-1-1 Trust Fund;
 59. all accounts within the State Reserve Fund;
 60. local revenue accounts collected by the Judiciary;
 61. Assistive Technology Loan Fund;
 62. Veterans Trust Fund;

- 1 63. Transportation Trust Fund;
- 2 64. Foreclosed Property Registry Fund;
- 3 65. Asbestos Worker Protection Fund;
- 4 66. Maryland Innovation Initiative Fund;
- 5 67. Family Security Trust Fund, subject to § 7-4A-03(d)
- 6 of the Health Occupations Article;
- 7 68. Baltimore City Community Enhancement
- 8 Transit-Oriented Development Fund;
- 9 69. the Maryland Legal Services Corporation Fund; [and]
- 10 70. Mortgage Loan Servicing Practices Settlement Fund;
- 11 **AND**

71. CHILD ABUSE PREVENTION FUND.

SECTION 2. AND BE IT FURTHER ENACTED, That:

- 14 (a) There is a Task Force to Study Training for School Employees and
- 15 of Volunteers on the Prevention, Identification, and Reporting of Child Sexual Abuse.
- 16 (b) The Task Force consists of the following members:
- 17 (1) two members of the Senate of Maryland, appointed by the
- 18 President of the Senate;
- 19 (2) two members of the House of Delegates, appointed by the Speaker
- 20 of the House;
- 21 (3) the State Superintendent of Education, or the Superintendent’s
- 22 designee;
- 23 (4) the Secretary of Health and Mental Hygiene, or the Secretary’s
- 24 designee;
- 25 (5) the Secretary of Human Resources, or the Secretary’s designee;
- 26 (6) the Secretary of Juvenile Services, or the Secretary’s designee; and
- 27 (7) the following six members, appointed by the Governor:

1 (i) one representative of the Governor's Office of Crime Control
2 and Prevention;

3 (ii) one representative of the State Council on Child Abuse and
4 Neglect;

5 (iii) one representative of public school employees with expertise
6 regarding the current operations and training practices within public schools on the
7 prevention, identification, and reporting of child sexual abuse;

8 (iv) one representative of nonpublic school employees with
9 expertise regarding the current operations and training practices within nonpublic
10 schools on the prevention, identification, and reporting of child sexual abuse;

11 (v) one representative of the federally recognized State sexual
12 assault coalition; and

13 (vi) one representative of a child advocacy center with expertise
14 in sexual abuse and victimization.

15 (c) The Governor shall designate the chair of the Task Force.

16 (d) The Governor's Office of Crime Control and Prevention shall provide staff
17 for the Task Force.

18 (e) A member of the Task Force:

19 (1) may not receive compensation as a member of the Task Force; but

20 (2) is entitled to reimbursement for expenses under the Standard
21 State Travel Regulations, as provided in the State budget.

22 (f) The Task Force shall:

23 (1) study:

24 (i) current practices and resources used by local school systems
25 to train employees and volunteers on the prevention, identification, and reporting of
26 child sexual abuse;

27 (ii) nationally recognized model programs for training
28 professional school employees on the prevention, identification, and reporting of child
29 sexual abuse;

30 (iii) the current child sexual abuse prevention curriculum in
31 schools; and

1 (iv) the resources currently available in the State for the
2 prevention, identification, and reporting of child sexual abuse, including resources
3 available through sexual assault programs, child advocacy centers, and nonprofit
4 organizations; and

5 (2) make recommendations regarding:

6 (i) whether training on child sexual abuse should be
7 incorporated into broader training on all child abuse and neglect, should be addressed
8 separately, or both;

9 (ii) whether certain school-based employees, including guidance
10 counselors and psychologists, should receive additional training on the identification
11 and reporting of child sexual abuse;

12 (iii) whether an age-appropriate statewide child sexual abuse
13 curriculum is advisable for elementary school students; and

14 (iv) the best practices for training school employees and
15 volunteers on the prevention, identification, and reporting of child sexual abuse.

16 (g) On or before December 1, 2013, the Task Force shall report its findings
17 and recommendations on the best practices for training school employees and
18 volunteers on the prevention, identification, and reporting of child sexual abuse to the
19 Governor and, in accordance with § 2-1246 of the State Government Article, the
20 Senate Judicial Proceedings Committee, the Senate Education, Health, and
21 Environmental Affairs Committee, the House Ways and Means Committee, and the
22 House Judiciary Committee.

23 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
24 take effect June 1, 2013. It shall remain effective for a period of 1 year and, at the end
25 of May 31, 2014, with no further action required by the General Assembly, Section 2 of
26 this Act shall be abrogated and of no further force and effect.

27 SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in
28 Section 3 of this Act, this Act shall take effect October 1, 2013.