

SENATE BILL 94

D3, D4, E1
SB 63/12 – JPR

3lr0382

By: **Senators Kelley, Colburn, Currie, DeGrange, Forehand, Jacobs, Klausmeier, Mathias, Raskin, Robey, Stone, and Young**

Introduced and read first time: January 10, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Notice and Reporting Requirements, Disclosure,**
3 **and Task Force**

4 FOR the purpose of expanding immunity from civil liability or criminal penalty to a
5 person who provides or participates in providing notice of child abuse or neglect
6 to the appropriate authorities; requiring the Office of the Chief Medical
7 Examiner to send an autopsy report to certain officials if the office finds a death
8 investigated by the office was caused by or related to child abuse or neglect;
9 making it a misdemeanor, subject to a certain penalty, for a certain person to
10 knowingly and willfully fail to file a certain report of abuse under certain
11 circumstances; requiring certain entities that employ or contract with a certain
12 person to have a certain policy relating to child abuse and neglect and to provide
13 employees and contractors with certain information; providing that a report
14 concerning child abuse or neglect may be disclosed on request to a certain
15 president of an institution of higher education or the Chancellor of the
16 University System of Maryland under certain circumstances; establishing the
17 Task Force to Study Training for School Employees and Volunteers on the
18 Prevention, Identification, and Reporting of Child Sexual Abuse; providing for
19 the composition, chair, and staffing of the Task Force; prohibiting a member of
20 the Task Force from receiving certain compensation, but authorizing the
21 reimbursement of certain expenses; requiring the Task Force to study and make
22 recommendations regarding certain matters; requiring the Task Force to report
23 its findings and recommendations to the Governor and to certain committees of
24 the General Assembly on or before a certain date; providing for the termination
25 of certain provisions of this Act; and generally relating to child abuse and
26 neglect.

27 BY repealing and reenacting, with amendments,
28 Article – Courts and Judicial Proceedings
29 Section 5–620

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2006 Replacement Volume and 2012 Supplement)

3 BY adding to
4 Article – Criminal Law
5 Section 3–602.2
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2012 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 5–704 and 5–708
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2012 Supplement)

13 BY adding to
14 Article – Family Law
15 Section 5–705.2
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2012 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Human Services
20 Section 1–202(a) and (c)(2)
21 Annotated Code of Maryland
22 (2007 Volume and 2012 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Human Services
25 Section 1–202(c)(1)(ix) and (x)
26 Annotated Code of Maryland
27 (2007 Volume and 2012 Supplement)

28 BY adding to
29 Article – Human Services
30 Section 1–202(c)(1)(xi)
31 Annotated Code of Maryland
32 (2007 Volume and 2012 Supplement)

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

35 **Article – Courts and Judicial Proceedings**

36 5–620.

1 Any person who in good faith **PROVIDES OR PARTICIPATES IN PROVIDING**
2 **NOTICE OF ABUSE OR NEGLECT UNDER § 5-704(A) OR WHO** makes or participates
3 in making a report of abuse or neglect under [§ 5-704] **§ 5-704(B)**, § 5-705, or
4 § 5-705.1 of the Family Law Article or participates in an investigation or a resulting
5 judicial proceeding is immune from any civil liability or criminal penalty that would
6 otherwise result from making or participating in a report of abuse or neglect or
7 participating in an investigation or a resulting judicial proceeding.

8 **Article – Criminal Law**

9 **3-602.2.**

10 **(A) AN INDIVIDUAL REQUIRED TO FILE A REPORT UNDER § 5-704 OF**
11 **THE FAMILY LAW ARTICLE MAY NOT KNOWINGLY AND WILLFULLY FAIL TO FILE**
12 **A REPORT OF ABUSE AS REQUIRED UNDER § 5-704 OF THE FAMILY LAW**
13 **ARTICLE IF:**

14 **(1) THE INDIVIDUAL:**

15 **(I) HAS ACTUAL AND DIRECT KNOWLEDGE OF THE ABUSE;**
16 **AND**

17 **(II) KNOWS OR SHOULD HAVE KNOWN THAT THE ABUSE IS**
18 **LIKELY TO CAUSE OR HAS CAUSED SERIOUS PHYSICAL INJURY OR DEATH TO A**
19 **CHILD; OR**

20 **(2) THE INDIVIDUAL HAS ACTUAL AND DIRECT KNOWLEDGE THAT**
21 **THERE HAS BEEN A VIOLATION OF § 3-303, § 3-304, § 3-305, § 3-306, OR §**
22 **3-602 OF THE CRIMINAL LAW ARTICLE IN WHICH THE VICTIM IS A CHILD.**

23 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
24 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
25 **EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

26 **Article – Family Law**

27 **5-704.**

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

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

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

5 (b) (1) **[An] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, AN** individual who notifies the appropriate authorities under
7 subsection (a) of this section shall make:

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

10 (ii) a written report:

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

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

15 (2) **IF THE OFFICE OF THE CHIEF MEDICAL EXAMINER FINDS**
16 **THAT A DEATH INVESTIGATED BY THE OFFICE WAS CAUSED BY OR RELATED TO**
17 **CHILD ABUSE OR NEGLECT, THE OFFICE SHALL SEND A COPY OF THE AUTOPSY**
18 **REPORT TO THE LOCAL DEPARTMENT AND APPROPRIATE LAW ENFORCEMENT**
19 **AGENCY.**

20 (3) (i) An agency to which an oral report of suspected abuse or
21 neglect is made under paragraph (1) of this subsection shall immediately notify the
22 other agency.

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

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

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

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

30 (3) the whereabouts of the child;

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

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

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

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

8 **5-705.2.**

9 **A PROPRIETORSHIP, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION,**
10 **OR OTHER PUBLIC OR PRIVATE ENTITY THAT EMPLOYS OR CONTRACTS WITH A**
11 **PERSON REQUIRED UNDER § 5-704 OF THIS SUBTITLE TO REPORT ABUSE OR**
12 **NEGLECT SHALL:**

13 **(1) HAVE A POLICY REQUIRING COMPLIANCE WITH ALL LAWS AND**
14 **REGULATIONS REGARDING CHILD ABUSE AND NEGLECT; AND**

15 **(2) PROVIDE EMPLOYEES AND CONTRACTORS WITH**
16 **INFORMATION REGARDING HOW TO REPORT CHILD ABUSE AND NEGLECT.**

17 **5-708.**

18 Any person who **PROVIDES OR PARTICIPATES IN PROVIDING NOTICE OF**
19 **ABUSE OR NEGLECT UNDER § 5-704(A) OR WHO** makes or participates in making a
20 report of abuse or neglect under [§ 5-704] **§ 5-704(B)**, § 5-705, or § 5-705.1 of this
21 subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle
22 or participates in an investigation or a resulting judicial proceeding shall have the
23 immunity described under § 5-620 of the Courts and Judicial Proceedings Article from
24 civil liability or criminal penalty.

25 **Article – Human Services**

26 **1-202.**

27 (a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family
28 Law Article, § 1-203 of this subtitle, and this section, a person may not disclose a
29 report or record concerning child abuse or neglect.

30 (c) A report or record concerning child abuse or neglect:

31 (1) may be disclosed on request to:

1 (ix) the Juvenile Justice Monitoring Unit of the Office of the
 2 Attorney General established under Title 6, Subtitle 4 of the State Government
 3 Article; [or]

4 (x) subject to subsection (d) of this section, a licensed
 5 practitioner of a hospital or birthing center to make discharge decisions concerning a
 6 child, when the practitioner suspects that the child may be in danger after discharge
 7 based on the practitioner's observation of the behavior of the child's parents or
 8 immediate family members; [and] OR

9 (XI) THE PRESIDENT OF AN INSTITUTION OF HIGHER
 10 EDUCATION, AS DEFINED IN § 10-101(H) OF THE EDUCATION ARTICLE, OR THE
 11 CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND TO CARRY OUT
 12 APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTION FOLLOWING A REPORT
 13 OF SUSPECTED CHILD ABUSE COMMITTED:

14 1. BY A CURRENT EMPLOYEE;

15 2. BY A CONTRACTOR, EMPLOYEE OF A
 16 CONTRACTOR, OR VOLUNTEER OF THE INSTITUTION WHO HAS ON-CAMPUS
 17 CONTACT WITH CHILDREN;

18 3. IN CONNECTION WITH A PROGRAM, CAMP, OR
 19 OTHER ACTIVITY THAT IS SPONSORED, RECOGNIZED, OR APPROVED BY THE
 20 INSTITUTION; OR

21 4. ON INSTITUTION PROPERTY; AND

22 (2) may be disclosed by the Department of Human Resources to the
 23 operator of a child care center that is required to be licensed or to hold a letter of
 24 compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family
 25 child care provider who is required to be registered under Title 5, Subtitle 5, Part V of
 26 the Family Law Article, to determine the suitability of an individual for employment
 27 in the child care center or family child care home.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) There is a Task Force to Study Training for School Employees and
 30 Volunteers on the Prevention, Identification, and Reporting of Child Sexual Abuse.

31 (b) The Task Force consists of the following members:

32 (1) two members of the Senate of Maryland, appointed by the
 33 President of the Senate;

- 1 (2) two members of the House of Delegates, appointed by the Speaker
2 of the House;
- 3 (3) the State Superintendent of Education, or the Superintendent's
4 designee;
- 5 (4) the Secretary of Health and Mental Hygiene, or the Secretary's
6 designee;
- 7 (5) the Secretary of Human Resources, or the Secretary's designee;
- 8 (6) the Secretary of Juvenile Services, or the Secretary's designee; and
- 9 (7) the following six members, appointed by the Governor:
- 10 (i) one representative of the Governor's Office of Crime Control
11 and Prevention;
- 12 (ii) one representative of the State Council on Child Abuse and
13 Neglect;
- 14 (iii) one representative of public school employees with expertise
15 regarding the current operations and training practices within nonpublic schools on
16 the prevention, identification, and reporting of child sexual abuse;
- 17 (iv) one representative of nonpublic school employees with
18 expertise regarding the current operations and training practices within public schools
19 on the prevention, identification, and reporting of child sexual abuse;
- 20 (v) one representative of the federally recognized State sexual
21 assault coalition; and
- 22 (vi) one representative of a child advocacy center with expertise
23 in sexual abuse and victimization.
- 24 (c) The Governor shall designate the chair of the Task Force.
- 25 (d) The State Department of Education shall provide staff for the Task Force.
- 26 (e) A member of the Task Force:
- 27 (1) may not receive compensation as a member of the Task Force; but
- 28 (2) is entitled to reimbursement for expenses under the Standard
29 State Travel Regulations, as provided in the State budget.
- 30 (f) The Task Force shall:

1 (1) study:

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

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

8 (iii) the current child sexual abuse prevention curriculum in
9 schools; and

10 (iv) the resources currently available in the State for the
11 prevention, identification, and reporting of child sexual abuse, including resources
12 available through sexual assault programs, child advocacy centers, and nonprofit
13 organizations; and

14 (2) make recommendations regarding:

15 (i) whether training on child sexual abuse should be
16 incorporated into broader training on all child abuse and neglect, should be addressed
17 separately, or both;

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

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

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

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

32 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
33 take effect October 1, 2013.

1 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
2 this Act, this Act shall take effect June 1, 2013. Section 2 of this Act shall remain
3 effective for a period of 1 year and, at the end of May 31, 2014, with no further action
4 required by the General Assembly, Section 2 of this Act shall be abrogated and of no
5 further force and effect.