

SENATE BILL 135

E1, D4
SB 140/12 – JPR

7lr1190

By: ~~Senator Lee~~ **Senators Lee, Brochin, Cassilly, Hough, Kelley, Muse, Norman,
Ramirez, Ready, Smith, and Zirkin**

Introduced and read first time: January 16, 2017

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2017

CHAPTER _____

1 AN ACT concerning

2 **Crimes – Child Abuse and Neglect – Failure to Report**

3 FOR the purpose of establishing that certain persons who are required to provide certain
4 notice or make certain reports of suspected child abuse or neglect may not knowingly
5 fail to give the notice or make the report; establishing the misdemeanor of the
6 knowing failure to report child abuse or neglect under certain circumstances;
7 providing certain penalties for a violation of this Act; and generally relating to child
8 abuse and neglect.

9 BY adding to

10 Article – Criminal Law

11 Section 3–602.2

12 Annotated Code of Maryland

13 (2012 Replacement Volume and 2016 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Family Law

16 Section 5–704 ~~and 5–705~~

17 Annotated Code of Maryland

18 (2012 Replacement Volume and 2016 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

20 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Criminal Law**

2 **3-602.2.**

3 (A) A PERSON WHO IS REQUIRED TO PROVIDE NOTICE OF SUSPECTED
4 ABUSE OR NEGLECT OF A CHILD OR MAKE A WRITTEN REPORT OF SUSPECTED ABUSE
5 OR NEGLECT OF A CHILD UNDER § 5-704 OF THE FAMILY LAW ARTICLE MAY NOT
6 KNOWINGLY FAIL TO PROVIDE THE REQUIRED NOTICE OR MAKE THE REQUIRED
7 WRITTEN REPORT IF THE PERSON:

8 (1) HAS ACTUAL KNOWLEDGE OF THE ABUSE OR NEGLECT; OR

9 (2) WITNESSES THE ACT OF THE ABUSE OR NEGLECT.

10 (B) ~~A PERSON WHO IS REQUIRED TO PROVIDE A REPORT OF SUSPECTED~~
11 ~~ABUSE OR NEGLECT OF A CHILD UNDER § 5-705 OF THE FAMILY LAW ARTICLE MAY~~
12 ~~NOT KNOWINGLY FAIL TO PROVIDE THE REQUIRED REPORT.~~

13 ~~(C)~~ A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
14 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR
15 IMPRISONMENT NOT EXCEEDING ~~1 YEAR~~ 6 MONTHS OR BOTH.

16 (C) THIS SECTION APPLIES ONLY TO A FAILURE TO REPORT CHILD ABUSE
17 THAT OCCURS DURING THE TIME THE CHILD IS A MINOR.

18 **Article – Family Law**

19 5-704.

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

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

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

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

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

1 (ii) a written report:

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

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

6 (2) (i) An agency to which an oral report of suspected abuse or neglect
7 is made under paragraph (1) of this subsection shall immediately notify the 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 this
11 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 who is
14 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 any
17 evidence or information available to the reporter concerning possible previous instances of
18 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 neglect.

22 ~~5-705.~~

23 ~~(a) (1) Except as provided in paragraphs (2) and (3) of this subsection,~~
24 ~~notwithstanding any other provision of law, including a law on privileged communications,~~
25 ~~a person in this State other than a health practitioner, police officer, or educator or human~~
26 ~~service worker who has reason to believe that a child has been subjected to abuse or neglect~~
27 ~~shall notify the local department or the appropriate law enforcement agency.~~

28 ~~(2) A person is not required to provide notice under paragraph (1) of this~~
29 ~~subsection.~~

1 ~~(i) in violation of the privilege described under § 9-108 of the Courts~~
 2 ~~Article;~~

3 ~~(ii) if the notice would disclose matter communicated in confidence~~
 4 ~~by a client to the client's attorney or other information relating to the representation of the~~
 5 ~~client; or~~

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

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

11 ~~(i) the communication was made to the minister, clergyman, or~~
 12 ~~priest in a professional character in the course of discipline enjoined by the church to which~~
 13 ~~the minister, clergyman, or priest belongs; and~~

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

16 ~~(b) (1) An agency to which a report of suspected abuse or neglect is made under~~
 17 ~~subsection (a) of this section shall immediately notify the other agency.~~

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

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 27 October 1, 2017.