

HOUSE BILL 838

D4
HB 1321/17 – JUD

8lr2687
CF SB 584

By: **Delegates Valentino–Smith, Atterbeary, Moon, Sanchez, Sydnor, Valderrama,
and A. Washington**

Introduced and read first time: February 2, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Protection – Reporting – Threat of Harm**

3 FOR the purpose of authorizing an individual to notify the local department of social
4 services or the appropriate law enforcement agency if the individual has reason to
5 believe that a verbal threat of imminent severe bodily harm or death to a child has
6 been made by a certain individual and that the child is at substantial risk of child
7 abuse; specifying certain procedures and requirements for a report concerning a
8 certain verbal threat of harm to a child; authorizing the local department or law
9 enforcement agency to receive a report concerning a certain verbal threat of harm to
10 a child; requiring the law enforcement agency to immediately refer the report to the
11 local department under certain circumstances; requiring the Secretary of Human
12 Services to adopt certain regulations; requiring the local department to make a
13 thorough investigation to protect the health, safety, and welfare of any child who
14 may be at substantial risk of abuse under certain circumstances; requiring the local
15 department to conduct a certain investigation jointly with the appropriate law
16 enforcement agency; authorizing the local department to decline to make an
17 investigation of a certain subsequent report under certain circumstances; requiring
18 the local department and the appropriate law enforcement agency to take certain
19 actions; providing certain immunity to a person who participates in certain activities
20 relating to a report made under this Act; making stylistic changes; and generally
21 relating to child protection.

22 BY repealing and reenacting, with amendments,
23 Article – Family Law
24 Section 5–704.1, 5–706.2, and 5–708
25 Annotated Code of Maryland
26 (2012 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Family Law

5–704.1.

(a) An individual may notify the local department or the appropriate law enforcement agency if:

(1) the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the regular presence of an individual, other than the child’s parent or guardian, who:

[(1)] (I) is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; and

[(2)] (II) based on additional information, poses a substantial risk of sexual abuse to the child; OR

(2) THE INDIVIDUAL HAS REASON TO BELIEVE THAT:

(I) A VERBAL THREAT OF IMMINENT SEVERE BODILY HARM OR DEATH TO A CHILD HAS BEEN MADE BY THE CHILD’S PARENT OR OTHER PERSON WHO HAS PERMANENT OR TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF THE CHILD; AND

(II) THE CHILD IS AT SUBSTANTIAL RISK OF ABUSE.

(b) (1) A report under subsection (a) of this section may be oral or in writing.

(2) If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, an individual who notifies the appropriate authorities under subsection (a) of this section immediately shall notify and give all of the information required by this section to the head of the institution or the designee of the head of the institution.

(c) To the extent reasonably possible, an individual who makes a report under this section shall include in the report the following information:

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

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

(3) the whereabouts of the child;

(4) FOR A REPORT UNDER SUBSECTION (A)(1) OF THIS SECTION, the

1 nature and extent of the substantial risk of sexual abuse of the child, including any evidence
2 or information available to the reporter concerning possible previous instances of sexual
3 abuse; [and]

4 **(5) FOR A REPORT UNDER SUBSECTION (A)(2) OF THIS SECTION, THE**
5 **NATURE AND EXTENT OF THE SUBSTANTIAL RISK OF ABUSE OF THE CHILD,**
6 **INCLUDING ANY EVIDENCE OR INFORMATION AVAILABLE TO THE REPORTER**
7 **CONCERNING POSSIBLE PREVIOUS INSTANCES OF ABUSE; AND**

8 **[(5)] (6)** any other information that would help to determine:

9 (i) the cause of the substantial risk of sexual abuse **UNDER**
10 **SUBSECTION (A)(1) OF THIS SECTION OR THE SUBSTANTIAL RISK OF ABUSE UNDER**
11 **SUBSECTION (A)(2) OF THIS SECTION;** and

12 (ii) the identity of any individual responsible for the substantial risk
13 of sexual abuse **UNDER SUBSECTION (A)(1) OF THIS SECTION OR THE SUBSTANTIAL**
14 **RISK OF ABUSE UNDER SUBSECTION (A)(2) OF THIS SECTION.**

15 5-706.2.

16 (a) (1) A local department or a law enforcement agency may receive a report:

17 **(I) under [§ 5-704.1] § 5-704.1(A)(1) of this subtitle that a child is**
18 **at substantial risk of sexual abuse; OR**

19 **(II) UNDER § 5-704.1(A)(2) OF THIS SUBTITLE THAT A CHILD IS**
20 **AT SUBSTANTIAL RISK OF ABUSE.**

21 (2) If a law enforcement agency receives the report, the law enforcement
22 agency shall immediately refer the report to the local department.

23 (3) The Secretary of Human Services shall adopt regulations governing:

24 (i) how staff in a local department should elicit information when
25 receiving a report under § 5-704.1 of this subtitle; and

26 (ii) the definition of substantial risk of sexual abuse **OR**
27 **SUBSTANTIAL RISK OF ABUSE** as used in this subtitle.

28 (b) (1) Except as provided in paragraph (3) of this subsection, after confirming
29 that the allegations in the report regarding the individual's history are accurate and that
30 there is specific information that the child is at substantial risk of sexual abuse **OR**
31 **SUBSTANTIAL RISK OF ABUSE**, the local department shall make a thorough investigation
32 to protect the health, safety, and welfare of any child or children who may be at substantial

1 risk of sexual abuse **OR SUBSTANTIAL RISK OF ABUSE.**

2 (2) The local department shall conduct the investigation jointly with an
3 appropriate law enforcement agency.

4 (3) If a subsequent report is received [regarding an individual with a
5 history of sexual abuse] that alleges substantially the same facts as a report **UNDER §**
6 **5-704.1 OF THIS SUBTITLE** that the local department has previously investigated, the
7 local department may decline to make an investigation of the subsequent report.

8 (c) Within 5 days after receiving the report, the local department and the
9 appropriate law enforcement agency shall:

10 (1) see the child in person;

11 (2) **(I) FOR A REPORT UNDER § 5-704.1(A)(1) OF THIS SUBTITLE,**
12 attempt to have an on-site interview with the child's caregiver and the individual identified
13 in the report as an individual registered under Title 11, Subtitle 7 of the Criminal
14 Procedure Article based on the commission of an offense against a child; **AND**

15 **(II) FOR A REPORT UNDER § 5-704.1(A)(2) OF THIS SUBTITLE,**
16 **ATTEMPT TO HAVE AN ON-SITE INTERVIEW WITH THE INDIVIDUAL ALLEGED TO**
17 **HAVE MADE THE THREAT OF HARM TO THE CHILD;**

18 (3) decide on the safety **OF** and level of risk to the child, wherever the child
19 is, and [of] other children in the household; and

20 (4) **(I) FOR A REPORT UNDER § 5-704.1(A)(1) OF THIS SUBTITLE,**
21 decide on the safety **OF** and level of risk [of] **TO** other children in the care or custody of the
22 individual identified in the report as an individual registered under Title 11, Subtitle 7 of
23 the Criminal Procedure Article based on the commission of an offense against a child; **AND**

24 **(II) FOR A REPORT UNDER § 5-704.1(A)(2) OF THIS SUBTITLE,**
25 **DECIDE ON THE SAFETY OF AND LEVEL OF RISK TO OTHER CHILDREN IN THE CARE**
26 **OR CUSTODY OF THE INDIVIDUAL ALLEGED TO HAVE MADE THE THREAT OF HARM**
27 **TO THE CHILD.**

28 (d) To the extent possible, an investigation under this section shall be completed
29 as soon as practicable but not later than 30 days after receipt of the report.

30 (e) As part of the investigation, the local department shall:

31 (1) determine whether the child is safe;

32 (2) determine whether **ABUSE OR** sexual abuse of the child has occurred;

1 (3) if appropriate, offer services to the family; and

2 (4) immediately decide whether to file a petition alleging that the child is
3 in need of assistance.

4 5–708.

5 Any person who makes or participates in making a report of abuse or neglect under
6 § 5–704, § 5–705, or § 5–705.1 of this subtitle or a report of substantial risk of sexual abuse
7 **OR SUBSTANTIAL RISK OF ABUSE** under § 5–704.1 of this subtitle or participates in an
8 investigation or a resulting judicial proceeding shall have the immunity described under §
9 5–620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2018.