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**By: Senators Pica and Stone**

Introduced and read first time: January 31, 1996

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect - Failure to Report - Penalties**

3 FOR the purpose of making it a misdemeanor for certain individuals required to report  
4 suspected child abuse or neglect to knowingly fail to make a report; providing a  
5 certain penalty; and generally relating to penalties for knowingly failing to report  
6 suspected child abuse or neglect.

7 BY repealing and reenacting, with amendments,  
8 Article - Family Law  
9 Section 5-704 and 5-705  
10 Annotated Code of Maryland  
11 (1991 Replacement Volume and 1995 Supplement)

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

14 **Article - Family Law**

15 5-704.

16 (a) Notwithstanding any other provision of law, including any law onprivileged  
17 communications, each health practitioner, police officer, or educator or human service  
18 worker, acting in a professional capacity, who has reason to believe that a child has been  
19 subjected to:

20 (1) (i) abuse, shall notify the local department or the appropriate law  
21 enforcement agency; or

22 (ii) neglect, shall notify the local department; and

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

27 (b) (1) An individual who notifies the appropriate authorities undersubsection  
28 (a) of this section shall make:

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

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

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

7 (ii) a written report:

8 1. to the local department not later than 48 hours after [the  
9 contact, examination, attention, or treatment that caused the individual to believe that  
10 the child had been subjected to abuse or neglect] MAKING THE ORAL REPORT; and

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

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

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

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

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

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

22 (3) the whereabouts of the child;

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

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

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

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

29 (D) ANY PERSON WHO IS REQUIRED TO PROVIDE NOTICE UNDER  
30 SUBSECTION (A) OF THIS SECTION OR REQUIRED TO MAKE A REPORT UNDER  
31 SUBSECTION (B) OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE  
32 REQUIRED NOTICE OR MAKE THE REQUIRED REPORT IS GUILTY OF A  
33 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

34 5-705.

35 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,  
36 notwithstanding any other provision of law, including a law on privileged communications,

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1 a person other than a health practitioner, police officer, or educator or human service  
2 worker who has reason to believe that a child has been subjected to abuse or neglect shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (E) ANY PERSON WHO IS REQUIRED TO MAKE A REPORT UNDER SUBSECTION  
35 (A) OF THIS SECTION AND WHO KNOWINGLY FAILS TO MAKE THE REQUIRED  
36 REPORT IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE  
37 NOT EXCEEDING \$1,000.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 October 1, 1996.