

HOUSE BILL 59

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1998 Regular Session
(81r0569)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Campbell**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse or Neglect - ~~Directors of Local Departments of Social Services -~~**
3 **Disclosure of Information**

4 FOR the purpose of authorizing the director of a local department of social services or
5 the Secretary of Human Resources to disclose certain information concerning
6 child abuse or neglect under certain circumstances; requiring the director or the
7 Secretary to consult with certain law enforcement agencies and ~~the Secretary of~~
8 ~~Human Resources~~ certain persons; prohibiting the director or the Secretary
9 from disclosing certain information; requiring the Secretary in consultation with
10 the local directors of social services to develop a certain form; providing for the
11 construction of this Act; defining certain terms; and generally relating to the
12 authority of the director of a local department of social services or the Secretary
13 of Human Resources to disclose certain information concerning child abuse or
14 neglect.

15 BY repealing and reenacting, with amendments,
16 Article 88A - Department of Human Resources

1 Section 6(b)
2 Annotated Code of Maryland
3 (1995 Replacement Volume and 1997 Supplement)

4 BY adding to
5 Article 88A - Department of Human Resources
6 Section 6A
7 Annotated Code of Maryland
8 (1995 Replacement Volume and 1997 Supplement)

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

11 **Article 88A - Department of Human Resources**

12 6.

13 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
14 Article AND § 6A OF THIS SUBTITLE, all records and reports concerning child abuse or
15 neglect are confidential, and their unauthorized disclosure is a criminal offense
16 subject to the penalty set out in subsection (e) of this section. Reports or records
17 concerning child abuse or neglect may be disclosed only:

18 (1) (i) Under a court order; or

19 (ii) Under an order of an administrative law judge, if the request for
20 disclosure concerns a case pending before the office of administrative hearings and
21 provisions are made to comply with other State or federal confidentiality laws and to
22 protect the identity of the reporter or other person whose life or safety is likely to be
23 endangered by disclosure;

24 (2) To personnel of local or State departments of social services, law
25 enforcement personnel, and members of multidisciplinary case consultation teams,
26 who are investigating a report of known or suspected child abuse or neglect or who
27 are providing services to a child or family that is the subject of the report;

28 (3) To local or State officials responsible for the administration of the
29 child protective service or child care licensing and regulations as necessary to carry
30 out their official functions;

31 (4) To a person who is the alleged child abuser or the person who is
32 suspected of child neglect if that person is responsible for the child's welfare and
33 provisions are made for the protection of the identity of the reporter or any other
34 person whose life or safety is likely to be endangered by disclosing the information;

35 (5) To a licensed practitioner who, or an agency, institution, or program
36 which is providing treatment or care to a child who is the subject of a report of child
37 abuse or neglect for a purpose relevant to the provision of the treatment or care;

1 (6) To a parent or other person who has permanent or temporary care
2 and custody of a child, if provisions are made for the protection of the identity of the
3 reporter or any other person whose life or safety is likely to be endangered by
4 disclosing the information;

5 (7) To the appropriate public school superintendent for the purpose of
6 carrying out appropriate personnel actions following a report of suspected child abuse
7 involving a student committed by a public school employee in that school system; or

8 (8) To the director of a licensed child care facility or licensed child
9 placement agency for the purpose of carrying out appropriate personnel actions
10 following a report of suspected child neglect or abuse alleged to have been committed
11 by an employee of the facility or agency and involving a child who is currently or who
12 was previously under that facility or agency's care.

13 6A.

14 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
15 INDICATED.

16 (2) "DIRECTOR" MEANS THE DIRECTOR OF A LOCAL DEPARTMENT OF
17 SOCIAL SERVICES.

18 (3) "LOCAL DEPARTMENT" MEANS THE DEPARTMENT OF SOCIAL
19 SERVICES THAT HAS JURISDICTION IN THE COUNTY:

20 (I) WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;
21 OR

22 (II) IF DIFFERENT, WHERE THE ABUSE OR NEGLECT IS ALLEGED TO
23 HAVE TAKEN PLACE.

24 (4) "MEDICAL REPORT" MEANS A PSYCHOLOGICAL, PSYCHIATRIC,
25 THERAPEUTIC, CLINICAL, OR MEDICAL REPORT OR EVALUATION RELATED TO THE
26 ALLEGEDLY ABUSED OR NEGLECTED CHILD, THE CHILD'S SIBLINGS, OR OTHER
27 CHILDREN IN THE HOUSEHOLD ~~OR IN THE~~ FAMILY, OR CARE OF THE ALLEGED
28 ABUSER OR NEGLECTOR.

29 (5) "SECRETARY" MEANS THE SECRETARY OF HUMAN RESOURCES.

30 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DIRECTOR
31 OR THE SECRETARY MAY DISCLOSE INFORMATION CONCERNING CHILD ABUSE OR
32 NEGLECT IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION IF:

33 (I) THE DIRECTOR OR THE SECRETARY DETERMINES THAT THE
34 DISCLOSURE IS NOT CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE
35 CHILD'S SIBLINGS, OR OTHER CHILDREN IN THE HOUSEHOLD ~~OR IN THE~~ FAMILY, OR
36 CARE OF THE ALLEGED ABUSER OR NEGLECTOR;

1 (II) THE ALLEGED ABUSER OR NEGLECTOR HAS BEEN CHARGED
2 WITH A CRIME RELATED TO A REPORT OF CHILD ABUSE OR NEGLECT; AND

3 (III) THE CHILD NAMED IN A REPORT OF ABUSE OR NEGLECT HAS
4 DIED OR SUFFERED A ~~NEAR-FATAL INJURY~~ SERIOUS PHYSICAL INJURY AS DEFINED
5 IN ARTICLE 27, § 12 OF THE CODE.

6 (2) IN DETERMINING WHETHER DISCLOSURE IS CONTRARY TO THE
7 BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN
8 THE HOUSEHOLD ~~OR IN THE~~ FAMILY, OR CARE OF THE ALLEGED ABUSER OR
9 NEGLECTOR UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE DIRECTOR OR THE
10 SECRETARY SHALL CONSIDER THE EFFECTS THAT DISCLOSURE MAY HAVE ON THE
11 PROVISION OF SERVICES TO THE CHILD, THE CHILD'S HOUSEHOLD OR FAMILY
12 MEMBERS, OR ANY CHILDREN IN THE CARE OF THE ALLEGED ABUSER OR
13 NEGLECTOR.

14 (C) (1) PRIOR TO DISCLOSING THE INFORMATION, THE DIRECTOR OR THE
15 SECRETARY SHALL CONSULT WITH:

16 ~~(1)~~ THE APPROPRIATE PRIMARY LAW ENFORCEMENT AGENCY AND THE
17 STATE'S ATTORNEY'S OFFICE CONCERNING WHETHER DISCLOSURE OF THE
18 INFORMATION WOULD JEOPARDIZE OR PREJUDICE ANY RELATED INVESTIGATION
19 OR PROSECUTION; ~~AND~~

20 ~~(2) THE SECRETARY OF HUMAN RESOURCES.~~

21 (2) PRIOR TO DISCLOSING THE INFORMATION:

22 (I) THE DIRECTOR SHALL CONSULT WITH THE SECRETARY IF THE
23 DIRECTOR DISCLOSES; AND

24 (II) THE SECRETARY SHALL CONSULT WITH THE DIRECTOR IF THE
25 SECRETARY DISCLOSES.

26 (D) THE DIRECTOR OR THE SECRETARY MAY DISCLOSE:

27 (1) THE NAME OF THE ALLEGEDLY ABUSED OR NEGLECTED CHILD;

28 (2) THE DATE OF THE REPORT OF THE ALLEGED CHILD ABUSE OR
29 NEGLECT AND ANY PRIOR OR SUBSEQUENT REPORTS;

30 (3) THE FINDINGS MADE BY THE LOCAL DEPARTMENT AT THE
31 CONCLUSION OF ITS INVESTIGATION AND THE DISPOSITION MADE BY THE LOCAL
32 DEPARTMENT BASED ON ITS FINDINGS;

33 (4) ANY SERVICES PROVIDED TO THE ALLEGED ABUSER OR NEGLECTOR,
34 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY
35 MEMBERS; ~~AND~~

1 (5) THE NUMBER OF REFERRALS FOR PROFESSIONAL SERVICES FOR
2 THE ALLEGED ABUSER OR NEGLECTOR, THE ALLEGEDLY ABUSED OR NEGLECTED
3 CHILD, AND THE HOUSEHOLD OR FAMILY MEMBERS;

4 (6) THE PRIOR ADJUDICATION AS A CHILD IN NEED OF ASSISTANCE OF
5 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, THE CHILD'S SIBLINGS, OR OTHER
6 CHILDREN IN THE HOUSEHOLD, FAMILY, OR CARE OF THE ALLEGED ABUSER OR
7 NEGLECTOR; AND

8 (5) (7) ANY INFORMATION CONCERNING THE CIRCUMSTANCES OF
9 THE ALLEGED CHILD ABUSE OR NEGLECT AND THE INVESTIGATION OF THE
10 CIRCUMSTANCES IF THE DIRECTOR OR THE SECRETARY DETERMINES THAT THE
11 DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

12 (E) (1) THE DIRECTOR OR THE SECRETARY MAY NOT:

13 (I) DISCLOSE THE IDENTITY OF OR PROVIDE AN IDENTIFYING
14 DESCRIPTION OF THE PERSON WHO MADE THE REPORT;

15 (II) IDENTIFY THE NAME OF THE ABUSED OR NEGLECTED CHILD'S
16 SIBLINGS, PARENT, INDIVIDUAL LEGALLY RESPONSIBLE FOR THE CHILD, OR OTHER
17 HOUSEHOLD OR FAMILY MEMBERS, OTHER THAN THE ALLEGED ABUSER OR
18 NEGLECTOR; ~~OR~~

19 (III) DISCLOSE A MEDICAL REPORT, EXCEPT AS RELATED TO THE
20 CAUSE OF THE CHILD'S INJURY OR DEATH AS A RESULT OF THE ABUSE OR NEGLECT;
21 OR

22 (IV) EXCEPT FOR THE INFORMATION IN SUBSECTION (D) OF THIS
23 SECTION, DISCLOSE THE FILE RELATING TO THE ALLEGEDLY ABUSED OR
24 NEGLECTED CHILD.

25 (2) NOTWITHSTANDING TITLE 4, SUBTITLE 3 OF THE HEALTH -
26 GENERAL ARTICLE, THE DIRECTOR OR THE SECRETARY MAY DISCLOSE A MEDICAL
27 REPORT RELATED TO THE CAUSE OF THE CHILD'S INJURY OR DEATH AS A RESULT OF
28 THE ABUSE OR NEGLECT.

29 (F) THE SECRETARY, IN CONSULTATION WITH THE LOCAL DIRECTORS OF
30 SOCIAL SERVICES, SHALL DEVELOP A FORM TO DISCLOSE THE INFORMATION
31 DESCRIBED IN SUBSECTION (D) OF THIS SECTION.

32 (G) THIS SECTION MAY NOT BE CONSTRUED AS GRANTING A RIGHT TO ANY
33 PERSON TO RECEIVE THE INFORMATION DESCRIBED IN SUBSECTION (D) OF THIS
34 SECTION.

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1998.

