

(PRE-FILED)

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By: **Delegate Campbell**

Requested: October 21, 1997

Introduced and read first time: January 14, 1998

Assigned to: Judiciary

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A BILL ENTITLED

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 to  
5 disclose certain information concerning child abuse or neglect under certain  
6 circumstances; requiring the director to consult with certain law enforcement  
7 agencies and the Secretary of Human Resources; prohibiting the director from  
8 disclosing certain information; and generally relating to the authority of the  
9 director of a local department of social services to disclose certain information  
10 concerning child abuse or neglect.

11 BY repealing and reenacting, with amendments,  
12 Article 88A - Department of Human Resources  
13 Section 6(b)  
14 Annotated Code of Maryland  
15 (1995 Replacement Volume and 1997 Supplement)

16 BY adding to  
17 Article 88A - Department of Human Resources  
18 Section 6A  
19 Annotated Code of Maryland  
20 (1995 Replacement Volume and 1997 Supplement)

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

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

24 6.

25 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law  
26 Article AND § 6A OF THIS SUBTITLE, all records and reports concerning child abuse or  
27 neglect are confidential, and their unauthorized disclosure is a criminal offense

1 subject to the penalty set out in subsection (e) of this section. Reports or records  
2 concerning child abuse or neglect may be disclosed only:

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

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

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

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

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

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

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

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

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

35 6A.

36 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
37 INDICATED.

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

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

5                   (I)     WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;  
6 OR

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

9                   (4)     "MEDICAL REPORT" MEANS A PSYCHOLOGICAL, PSYCHIATRIC,  
10 THERAPEUTIC, CLINICAL, OR MEDICAL REPORT OR EVALUATION RELATED TO THE  
11 ALLEGEDLY ABUSED OR NEGLECTED CHILD, THE CHILD'S SIBLINGS, OR OTHER  
12 CHILDREN IN THE HOUSEHOLD OR IN THE CARE OF THE ALLEGED ABUSER OR  
13 NEGLECTOR.

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

17                   (I)     THE DIRECTOR DETERMINES THAT THE DISCLOSURE IS NOT  
18 CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR  
19 OTHER CHILDREN IN THE HOUSEHOLD OR IN THE CARE OF THE ALLEGED ABUSER  
20 OR NEGLECTOR;

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

23                   (III)   THE CHILD NAMED IN A REPORT OF ABUSE OR NEGLECT HAS  
24 DIED OR SUFFERED A NEAR FATAL INJURY.

25                   (2)     IN DETERMINING WHETHER DISCLOSURE IS CONTRARY TO THE  
26 BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN  
27 THE HOUSEHOLD OR IN THE CARE OF THE ALLEGED ABUSER OR NEGLECTOR UNDER  
28 PARAGRAPH (1)(I) OF THIS SUBSECTION, THE DIRECTOR SHALL CONSIDER THE  
29 EFFECTS THAT DISCLOSURE MAY HAVE ON THE PROVISION OF SERVICES TO THE  
30 CHILD, THE CHILD'S HOUSEHOLD MEMBERS, OR ANY CHILDREN IN THE CARE OF THE  
31 ALLEGED ABUSER OR NEGLECTOR.

32           (C)     PRIOR TO DISCLOSING THE INFORMATION, THE DIRECTOR SHALL  
33 CONSULT WITH:

34                   (1)     THE APPROPRIATE LAW ENFORCEMENT AGENCY CONCERNING  
35 WHETHER DISCLOSURE OF THE INFORMATION WOULD JEOPARDIZE OR PREJUDICE  
36 ANY RELATED INVESTIGATION OR PROSECUTION; AND

37                   (2)     THE SECRETARY OF HUMAN RESOURCES.

1 (D) THE DIRECTOR MAY DISCLOSE:

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

3 (2) THE DATE OF THE REPORT OF THE ALLEGED CHILD ABUSE OR  
4 NEGLECT;

5 (3) THE FINDINGS MADE BY THE LOCAL DEPARTMENT AT THE  
6 CONCLUSION OF ITS INVESTIGATION AND THE DISPOSITION MADE BY THE LOCAL  
7 DEPARTMENT BASED ON ITS FINDINGS;

8 (4) ANY SERVICES PROVIDED TO THE ALLEGED ABUSER OR NEGLECTOR,  
9 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD MEMBERS;  
10 AND

11 (5) ANY INFORMATION CONCERNING THE CIRCUMSTANCES OF THE  
12 ALLEGED CHILD ABUSE OR NEGLECT AND THE INVESTIGATION OF THE  
13 CIRCUMSTANCES IF THE DIRECTOR DETERMINES THAT THE DISCLOSURE IS  
14 CONSISTENT WITH THE PUBLIC INTEREST.

15 (E) (1) THE DIRECTOR MAY NOT:

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

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

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

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

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