

HOUSE BILL 59

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1998 Regular Session
8lr0569
CF 8lr2329

(PRE-FILED)

By: **Delegate Campbell**
Requested: October 21, 1997
Introduced and read first time: January 14, 1998
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 17, 1998

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
17 Section 6(b)
18 Annotated Code of Maryland
19 (1995 Replacement Volume and 1997 Supplement)

20 BY adding to
21 Article 88A - Department of Human Resources
22 Section 6A
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1997 Supplement)

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

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

4 6.

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

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

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

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

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

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

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

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

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

37 (8) To the director of a licensed child care facility or licensed child
38 placement agency for the purpose of carrying out appropriate personnel actions

1 following a report of suspected child neglect or abuse alleged to have been committed
 2 by an employee of the facility or agency and involving a child who is currently or who
 3 was previously under that facility or agency's care.

4 6A.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 6 INDICATED.

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

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

11 (I) WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;
 12 OR

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

15 (4) "MEDICAL REPORT" MEANS A PSYCHOLOGICAL, PSYCHIATRIC,
 16 THERAPEUTIC, CLINICAL, OR MEDICAL REPORT OR EVALUATION RELATED TO THE
 17 ALLEGEDLY ABUSED OR NEGLECTED CHILD, THE CHILD'S SIBLINGS, OR OTHER
 18 CHILDREN IN THE HOUSEHOLD ~~OR IN THE~~, FAMILY, OR CARE OF THE ALLEGED
 19 ABUSER OR NEGLECTOR.

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

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

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

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

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

33 (2) IN DETERMINING WHETHER DISCLOSURE IS CONTRARY TO THE
 34 BEST INTERESTS OF THE CHILD, THE CHILD'S SIBLINGS, OR OTHER CHILDREN IN
 35 THE HOUSEHOLD ~~OR IN THE~~, FAMILY, OR CARE OF THE ALLEGED ABUSER OR
 36 NEGLECTOR UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION, THE DIRECTOR OR THE
 37 SECRETARY SHALL CONSIDER THE EFFECTS THAT DISCLOSURE MAY HAVE ON THE

1 PROVISION OF SERVICES TO THE CHILD, THE CHILD'S HOUSEHOLD OR FAMILY
 2 MEMBERS, OR ANY CHILDREN IN THE CARE OF THE ALLEGED ABUSER OR
 3 NEGLECTOR.

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

6 ~~(1)~~ THE ~~APPROPRIATE~~ PRIMARY LAW ENFORCEMENT AGENCY AND THE
 7 STATE'S ATTORNEY'S OFFICE CONCERNING WHETHER DISCLOSURE OF THE
 8 INFORMATION WOULD JEOPARDIZE OR PREJUDICE ANY RELATED INVESTIGATION
 9 OR PROSECUTION; ~~AND~~

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

11 (2) PRIOR TO DISCLOSING THE INFORMATION:

12 (I) THE DIRECTOR SHALL CONSULT WITH THE SECRETARY IF THE
 13 DIRECTOR DISCLOSES; AND

14 (II) THE SECRETARY SHALL CONSULT WITH THE DIRECTOR IF THE
 15 SECRETARY DISCLOSES.

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

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

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

20 (3) THE FINDINGS MADE BY THE LOCAL DEPARTMENT AT THE
 21 CONCLUSION OF ITS INVESTIGATION AND THE DISPOSITION MADE BY THE LOCAL
 22 DEPARTMENT BASED ON ITS FINDINGS;

23 (4) ANY SERVICES PROVIDED TO THE ALLEGED ABUSER OR NEGLECTOR,
 24 THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY
 25 MEMBERS; ~~AND~~

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

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

33 ~~(5)~~ (7) ANY INFORMATION CONCERNING THE CIRCUMSTANCES OF
 34 THE ALLEGED CHILD ABUSE OR NEGLECT AND THE INVESTIGATION OF THE
 35 CIRCUMSTANCES IF THE DIRECTOR OR THE SECRETARY DETERMINES THAT THE
 36 DISCLOSURE IS CONSISTENT WITH THE PUBLIC INTEREST.

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

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

4 (II) IDENTIFY THE NAME OF THE ABUSED OR NEGLECTED CHILD'S
5 SIBLINGS, PARENT, INDIVIDUAL LEGALLY RESPONSIBLE FOR THE CHILD, OR OTHER
6 HOUSEHOLD OR FAMILY MEMBERS, OTHER THAN THE ALLEGED ABUSER OR
7 NEGLECTOR; ~~OR~~

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

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

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

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

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

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