

HOUSE BILL 183

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1998 Regular Session
8lr6012

By: **Chairman, Judiciary Committee (Departmental - Human Resources)**
Introduced and read first time: January 22, 1998
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Reports of Child Abuse or Neglect - Attorneys**

3 FOR the purpose of allowing an attorney who represents a child to report suspected
4 abuse or neglect to the local department of social services or appropriate law
5 enforcement agency under certain circumstances; and generally relating to
6 reports of child abuse or neglect.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-705
10 Annotated Code of Maryland
11 (1991 Replacement Volume and 1997 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 5-705.

16 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,
17 notwithstanding any other provision of law, including a law on privileged
18 communications, a person other than a health practitioner, police officer, or educator
19 or human service worker who has reason to believe that a child has been subjected to
20 abuse or neglect shall:

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

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

25 (2) (I) A person is not required to provide notice under paragraph (1) of
26 this subsection:

1 [(i)] 1. in violation of the privilege described under § 9-108 of the
2 Courts Article;

3 [(ii)] 2. if the notice would disclose [matter] INFORMATION
4 communicated in confidence by a client to the client's attorney or other information
5 relating to the representation of the client; or

6 [(iii)] 3. in violation of any constitutional right to assistance of
7 counsel.

8 (II) AN ATTORNEY WHO REPRESENTS A CHILD MAY PROVIDE
9 NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE CHILD COMMUNICATES
10 TO THE ATTORNEY THAT THE CHILD HAS BEEN ABUSED OR NEGLECTED.

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

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

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

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

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

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

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

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

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