

SENATE BILL 73

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HB 1067/97 - JUD

1998 Regular Session
8lr6085

(PRE-FILED)

By: **Chairman, Judicial Proceedings Committee (Departmental - Children,
Youth and Families) and Senator Forehand**

Requested: November 14, 1997
Introduced and read first time: January 14, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: February 3, 1998

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Child Abuse and Neglect - Notification of Out-of-State**
3 **Agencies**

4 FOR the purpose of requiring that certain persons notify the local department of
5 social services or a certain out-of-state agency if a child suspected of being
6 abused or neglected does not live in this State and the suspected abuse or
7 neglect did not occur in this State; requiring a certain written report to be made
8 not later than a certain time period; specifying certain requirements for the
9 notification to an out-of-state agency; making stylistic changes; and generally
10 relating to certain notification to out-of-state agencies regarding suspected
11 child abuse or neglect.

12 BY renumbering
13 Article - Family Law
14 Section 5-701(q) through (v), respectively
15 to be Section 5-701(r) through (w), respectively
16 Annotated Code of Maryland
17 (1991 Replacement Volume and 1997 Supplement)

18 BY adding to
19 Article - Family Law
20 Section 5-701(q)
21 Annotated Code of Maryland
22 (1991 Replacement Volume and 1997 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Family Law
3 Section 5-704(a) and (b)(1), 5-705(a), and 5-706(a) and (b)
4 Annotated Code of Maryland
5 (1991 Replacement Volume and 1997 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
7 MARYLAND, That Section(s) 5-701(q) through (v), respectively, of Article - Family
8 Law of the Annotated Code of Maryland be renumbered to be Section(s) 5-701(r)
9 through (w), respectively.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
11 read as follows:

12 **Article - Family Law**

13 5-701.

14 (Q) "OUT-OF-STATE AGENCY" MEANS A SOCIAL SERVICES, LAW
15 ENFORCEMENT, OR COMPARABLE AGENCY OUTSIDE OF THE STATE AUTHORIZED TO
16 RECEIVE AND INVESTIGATE REPORTS OF SUSPECTED CHILD ABUSE AND NEGLECT
17 IN THE JURISDICTION LOCATED OUTSIDE OF THE STATE.

18 5-704.

19 (a) Notwithstanding any other provision of law, including any law on
20 privileged communications, each health practitioner, police officer, or educator or
21 human service worker, acting in a professional capacity, who has reason to believe
22 that a child has been subjected to ABUSE OR NEGLECT, SHALL:

23 (1) (i) [abuse, shall] IF THE PERSON HAS REASON TO BELIEVE THE
24 CHILD HAS BEEN SUBJECTED TO ABUSE, notify the local department or the
25 appropriate law enforcement agency; or

26 (ii) [neglect, shall] IF THE PERSON HAS REASON TO BELIEVE THE
27 CHILD HAS BEEN SUBJECTED TO NEGLECT, notify the local department; and

28 (2) if acting as a staff member of a hospital, public health agency, child
29 care institution, juvenile detention center, school, or similar institution, immediately
30 notify and give all information required by this section to the head of the institution
31 or the designee of the head; AND

32 (3) IF THE SUSPECTED ABUSE OR NEGLECT DID NOT OCCUR IN THIS
33 STATE AND THE CHILD SUSPECTED OF BEING ABUSED OR NEGLECTED DOES NOT
34 RESIDE IN THIS STATE, IMMEDIATELY NOTIFY THE LOCAL DEPARTMENT OF SOCIAL
35 SERVICES OR THE APPROPRIATE OUT-OF-STATE AGENCY WHERE THE CHILD
36 RESIDES OR WHERE THE SUSPECTED ABUSE OR NEGLECT OCCURRED.

1 (b) (1) An individual who notifies the appropriate authorities under
2 subsection (a) of this section shall make:

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

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

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

10 (ii) a written report:

11 1. to the local department not later than 48 hours after
12 MAKING THE ORAL REPORT OR AFTER the contact, examination, attention, or
13 treatment that caused the individual to believe that the child had been subjected to
14 abuse or neglect; and

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

17 5-705.

18 (a) (1) Except as provided in paragraphs [(2)] (3) and [(3)] (4) of this
19 subsection, notwithstanding any other provision of law, including a law on privileged
20 communications, a person other than a health practitioner, police officer, or educator
21 or human service worker who has reason to believe that a child has been subjected to
22 abuse or neglect shall:

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

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

27 (2) IF THE SUSPECTED ABUSE OR NEGLECT DID NOT OCCUR IN THIS
28 STATE AND THE CHILD SUSPECTED OF BEING ABUSED OR NEGLECTED DOES NOT
29 RESIDE IN THIS STATE, A PERSON SHALL NOTIFY THE LOCAL DEPARTMENT OF
30 SOCIAL SERVICES OR THE APPROPRIATE OUT-OF-STATE AGENCY WHERE THE CHILD
31 RESIDES OR WHERE THE SUSPECTED ABUSE OR NEGLECT OCCURRED.

32 [(2)] (3) A person is not required to provide notice under [paragraph (1)]
33 PARAGRAPHS (1) AND (2) of this subsection:

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

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

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

5 [(3)] (4) A minister of the gospel, clergyman, or priest of an established
6 church of any denomination is not required to provide notice under [paragraph]
7 PARAGRAPHS (1) AND (2) of this subsection if the notice would disclose matter in
8 relation to any communication described in § 9-111 of the Courts Article and:

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

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

14 5-706.

15 (a) (1) [Promptly] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
16 SUBSECTION, PROMPTLY after receiving a report of suspected abuse or neglect:

17 [(1)] (I) the local department or the appropriate law enforcement
18 agency, or both, if jointly agreed on, shall make a thorough investigation of a report of
19 suspected abuse to protect the health, safety, and welfare of the child or children; or

20 [(2)] (II) the local department shall make a thorough investigation of a
21 report of suspected neglect to protect the health, safety, and welfare of the child or
22 children.

23 (2) (I) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE
24 OR NEGLECT THAT OCCURRED OUTSIDE OF THIS STATE, THE LOCAL DEPARTMENT
25 OR THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE
26 OUT-OF-STATE AGENCY IN THE JURISDICTION WHERE THE CHILD RESIDES OR
27 WHERE SUSPECTED ABUSE OR NEGLECT OCCURRED.

28 (II) THE NOTIFICATION TO AN OUT-OF-STATE AGENCY REQUIRED
29 UNDER THIS SUBSECTION SHALL CONSIST OF:

30 1. ORAL NOTIFICATION THAT INCLUDES THE CONTENTS OF
31 AN ORAL REPORT MADE UNDER § 5-704 OR § 5-705 OF THIS SUBTITLE; AND

32 2. A COPY OF A WRITTEN REPORT MADE UNDER § 5-704 OR §
33 5-705 OF THIS SUBTITLE.

34 (b) [Within] EXCEPT AS OTHERWISE PROVIDED FOR SUSPECTED ABUSE OR
35 NEGLECT THAT OCCURRED OUTSIDE OF THIS STATE, WITHIN 24 hours after receiving
36 a report of suspected physical or sexual abuse and within 5 days after receiving a

1 report of suspected neglect or suspected mental injury, the local department or the
2 appropriate law enforcement agency shall:

3 (1) see the child;

4 (2) attempt to have an on-site interview with the child's caretaker;

5 (3) decide on the safety of the child, wherever the child is, and of other
6 children in the household; and

7 (4) decide on the safety of other children in the care or custody of the
8 alleged abuser.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 1998.