

SENATE BILL 529

Unofficial Copy
D4

1998 Regular Session
(8lr2329)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Collins (Baltimore County Administration) and
Senator Ruben (Montgomery County Administration)**

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.

President.

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,

1 Article 88A - Department of Human Resources
2 Section 6(b)
3 Annotated Code of Maryland
4 (1995 Replacement Volume and 1997 Supplement)

5 BY adding to
6 Article 88A - Department of Human Resources
7 Section 6A
8 Annotated Code of Maryland
9 (1995 Replacement Volume and 1997 Supplement)

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

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

13 6.

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

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

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

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

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

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

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

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

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

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

16 6A.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 18 INDICATED.

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

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

23 (I) WHERE THE ALLEGEDLY ABUSED OR NEGLECTED CHILD LIVES;
 24 OR

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

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

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

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

36 (I) THE DIRECTOR OR THE SECRETARY DETERMINES THAT THE
 37 DISCLOSURE IS NOT CONTRARY TO THE BEST INTERESTS OF THE CHILD, THE

1 CHILD'S SIBLINGS, OR OTHER CHILDREN IN THE HOUSEHOLD ~~OR IN THE~~, FAMILY, OR
2 CARE OF THE ALLEGED ~~ADULT~~ ABUSER OR NEGLECTOR;

3 (II) THE ALLEGED ~~ADULT~~ ABUSER OR NEGLECTOR HAS BEEN
4 CHARGED WITH A CRIME RELATED TO A REPORT OF CHILD ABUSE OR NEGLECT; AND

5 (III) THE CHILD NAMED IN A REPORT OF ABUSE OR NEGLECT HAS
6 DIED OR SUFFERED A SERIOUS PHYSICAL INJURY AS DEFINED ~~BY~~ IN ARTICLE 27, § 12
7 OF THE CODE.

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

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

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

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

23 (2) PRIOR TO DISCLOSING THE INFORMATION:

24 (I) THE DIRECTOR SHALL CONSULT WITH THE SECRETARY IF THE
25 DIRECTOR DISCLOSES; AND

26 (II) THE SECRETARY SHALL CONSULT WITH THE DIRECTOR IF THE
27 SECRETARY DISCLOSES.

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

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

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

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

1 (4) ANY SERVICES PROVIDED TO THE ALLEGED ~~ADULT~~ ABUSER OR
2 NEGLECTOR, THE ALLEGEDLY ABUSED OR NEGLECTED CHILD, AND THE
3 HOUSEHOLD OR FAMILY MEMBERS; ~~AND~~

4 (5) THE NUMBER OF REFERRALS FOR PROFESSIONAL SERVICES FOR
5 THE ALLEGED ~~ADULT~~ ABUSER OR NEGLECTOR, THE ALLEGEDLY ABUSED OR
6 NEGLECTED CHILD, AND THE HOUSEHOLD OR FAMILY MEMBERS;

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

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

15 (E) (1) THE DIRECTOR OR THE SECRETARY 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 OR FAMILY MEMBERS, OTHER THAN THE ALLEGED ~~ADULT~~ ABUSER OR
21 NEGLECTOR; ~~OR~~

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

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

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

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

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

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