

**HOUSE BILL 148**  
**EMERGENCY BILL**

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1999 Regular Session  
9lr0163

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By: **Chairman, Judiciary Committee (Departmental - Human Resources)**

Introduced and read first time: January 28, 1999

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Child Abuse and Neglect - Administrative Appeal Procedures and**  
3                                   **Maintenance of Data**

4 FOR the purpose of authorizing the disclosure of certain reports or records concerning  
5 child abuse to certain local and State officials; providing that a certain  
6 individual may request a certain contested case hearing in the event of a finding  
7 of indicated child abuse or neglect; altering the deadline for requesting a certain  
8 contested case hearing; providing that a certain individual may request a  
9 certain conference in the event of a finding of unsubstantiated child abuse or  
10 neglect; establishing certain appeal rights; authorizing the Social Services  
11 Administration of the Department of Human Resources to adopt certain  
12 regulations; repealing the authority of the Department to adopt certain  
13 regulations regarding a central registry; requiring the local departments of  
14 social services to provide certain appeal rights to certain individuals; making  
15 this Act an emergency measure; and generally relating to child abuse and  
16 neglect.

17 BY repealing and reenacting, with amendments,  
18 Article 88A - Department of Human Resources  
19 Section 6(b)  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume)

22 BY repealing and reenacting, with amendments,  
23 Article - Family Law  
24 Section 5-706.1 and 5-707  
25 Annotated Code of Maryland  
26 (1999 Replacement Volume)

27 BY repealing  
28 Article - Family Law  
29 Section 5-706.2, 5-714, and 5-715  
30 Annotated Code of Maryland

1 (1999 Replacement Volume)

2 BY adding to

3 Article - Family Law

4 Section 5-714

5 Annotated Code of Maryland

6 (1999 Replacement Volume)

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

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

10 6.

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

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

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

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

26 (3) To local or State officials responsible for the administration of [the]  
27 child protective [service] SERVICES or child care, FOSTER CARE, AND ADOPTION  
28 licensing, APPROVAL, [and] OR regulations as necessary to carry out their official  
29 functions;

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

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

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

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

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

13 **Article - Family Law**

14 5-706.1.

15 (a) Within 30 days after the completion of an investigation in which there has  
16 been a finding of indicated or unsubstantiated abuse or neglect, the local department  
17 shall notify in writing the person alleged to have abused or neglected a child:

18 (1) of the finding; and

19 (2) [that the person may request an administrative hearing to] OF THE  
20 OPPORTUNITY TO appeal the finding IN ACCORDANCE WITH THIS SECTION.

21 (b) (1) [A] IN THE CASE OF A FINDING OF INDICATED ABUSE OR NEGLECT,  
22 A person may request [an administrative hearing] A CONTESTED CASE HEARING IN  
23 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE by  
24 responding to the notice of the local department of social services in writing within  
25 [60] 30 days.

26 [(c) The local department shall forward all requests for hearings to the Office  
27 of Administrative Hearings within 10 days of receipt.

28 (d) On receipt of a request for an administrative hearing to appeal and prior to  
29 the hearing, the department shall:

30 (1) review all records and reports concerning the alleged abuse or  
31 neglect; and

32 (2) determine whether the finding shall be amended, modified, or  
33 expunged.]

34 [(e) (2) Unless the person and the department agree on another location,  
35 [the] A CONTESTED CASE hearing shall be held [in the manner provided under §  
36 5-706.2 of this subtitle] in the jurisdiction in which the person alleged to have abused  
37 or neglected a child resides.

1 [(f)] (3) (I) If a criminal proceeding is pending on charges arising out of the  
2 alleged abuse or neglect, the Office of Administrative Hearings shall stay the hearing  
3 until a final disposition is made.

4 [(g)] (II) If after final disposition of the criminal charge, the person requesting  
5 the hearing is found guilty of any criminal charge arising out of the alleged abuse or  
6 neglect, the Office of Administrative Hearings shall dismiss the administrative  
7 appeal.

8 [(h) (1)] (4) (I) If a CINA proceeding is pending concerning a child who has  
9 been allegedly abused or neglected by the appellant or a child in the care, custody, or  
10 household of the appellant, the Office of Administrative Hearings shall stay the  
11 hearing until the CINA proceeding is concluded.

12 [(2)] (II) After the conclusion of the CINA proceeding, the Office of  
13 Administrative Hearings shall vacate the stay and schedule further proceedings in  
14 accordance with this section [and § 5-706.2 of this subtitle].

15 (C) (1) IN THE CASE OF A FINDING OF UNSUBSTANTIATED ABUSE OR  
16 NEGLECT, A PERSON MAY REQUEST A CONFERENCE WITH A SUPERVISOR IN THE  
17 LOCAL DEPARTMENT BY RESPONDING TO THE NOTICE OF THE LOCAL DEPARTMENT  
18 OF SOCIAL SERVICES IN WRITING WITHIN 30 DAYS.

19 (2) IN RESPONSE TO A TIMELY REQUEST FOR A CONFERENCE, A LOCAL  
20 DEPARTMENT SUPERVISOR SHALL SCHEDULE A CONFERENCE, TO OCCUR WITHIN 30  
21 DAYS AFTER THE SUPERVISOR RECEIVES THE REQUEST, TO ALLOW THE PERSON AN  
22 OPPORTUNITY TO REVIEW THE REDACTED RECORD AND REQUEST CORRECTIONS OR  
23 TO SUPPLEMENT THE RECORD.

24 (3) WITHIN 10 DAYS AFTER THE CONFERENCE, THE LOCAL  
25 DEPARTMENT SHALL SEND THE PERSON A BRIEF WRITTEN SUMMARY OF THE  
26 CONFERENCE AND OF ANY MODIFICATIONS TO BE MADE IN THE RECORD.

27 (4) THE PERSON MAY REQUEST A CONTESTED CASE HEARING TO  
28 APPEAL THE OUTCOME OF THE CONFERENCE BY RESPONDING TO THE SUMMARY IN  
29 WRITING WITHIN 30 DAYS.

30 [5-706.2.

31 (a) When there has been a finding of indicated or unsubstantiated child abuse  
32 or neglect under § 5-706 of this subtitle, and an administrative hearing to appeal has  
33 been requested before an administrative law judge under § 5-706.1 of this subtitle,  
34 the person who is the alleged abuser or the person who is suspected of child neglect  
35 may request an in camera review by the administrative law judge of the full report or  
36 record to determine the accuracy and sufficiency of the report or record.

37 (b) On notice to the Department by the Office of Administrative Hearings that  
38 there has been a request under this section or § 5-706.1 of this subtitle, the  
39 Department shall forward all reports and records concerning the case to the Office of  
40 Administrative Hearings.

1 (c) After the administrative law judge determines that the information  
2 contained in the report or record is sufficient and accurate for purposes of  
3 determining an issue in a proceeding, the administrative law judge may provide the  
4 full report or record to the person who is the subject of the report or record, provided  
5 that provisions are made for the protection of the identity of the person who provided  
6 the information in the report or record or any other person whose life or safety is  
7 likely to be endangered by the provision of the full report or record.

8 (d) (1) If a person contests the finding of the Department, after review of the  
9 reports and records and any additional written information submitted by the person,  
10 the administrative law judge shall make a determination as to the correctness of the  
11 finding.

12 (2) If the administrative law judge determines that the finding is  
13 incorrect, the administrative law judge shall order the Department to amend, modify,  
14 or expunge the finding, as appropriate.]

15 5-707.

16 (a) Subject to federal and State law, the Administration shall provide by  
17 regulation adopted in accordance with Title 10, Subtitle 1 of the State Government  
18 Article:

19 (1) procedures for protecting the confidentiality of reports and records  
20 made in accordance with this subtitle;

21 (2) conditions under which information may be released; [and]

22 (3) conditions for determining in cases whether abuse, neglect, or sexual  
23 abuse is indicated, ruled out, or unsubstantiated; AND

24 (4) PROCEDURES FOR THE APPEAL PROCESSES PROVIDED IN THIS  
25 SUBTITLE.

26 (b) The local department shall expunge a report of suspected abuse or neglect  
27 and all assessments and investigative findings:

28 (1) within 5 years after the date of referral if the investigation under §  
29 5-706 of this subtitle concludes that the report is unsubstantiated, and no further  
30 reports of abuse or neglect are received during the 5 years; and

31 (2) within 120 days after the date of referral if the report is ruled out,  
32 and no further reports of abuse or neglect are received during the 120 days.

33 [5-714.

34 (a) The Social Services Administration and each local department may  
35 maintain a central registry of cases reported under this subtitle.

1 (b) The respective local departments throughout this State shall provide the  
2 information for the central registry.

3 (c) The information in the central registry shall be at the disposal of:

4 (1) the protective services staff of the Social Services Administration;

5 (2) the protective services staffs of local departments who are  
6 investigating a report of suspected abuse or neglect; and

7 (3) law enforcement personnel who are investigating a report of  
8 suspected abuse or neglect.]

9 5-714.

10 (A) THE LOCAL DEPARTMENT OF SOCIAL SERVICES SHALL PROVIDE AN  
11 INDIVIDUAL WITH AN OPPORTUNITY TO APPEAL AN UNEXPUNGED FINDING OF  
12 INDICATED OR UNSUBSTANTIATED ABUSE OR NEGLECT IN ACCORDANCE WITH §  
13 5-706.1 OF THIS SUBTITLE IF THE INDIVIDUAL:

14 (1) REQUESTS SUCH AN APPEAL;

15 (2) HAS NOT BEEN OFFERED AN OPPORTUNITY TO REQUEST A  
16 CONTESTED CASE HEARING; AND

17 (3) HAS NOT BEEN FOUND GUILTY OF ANY CRIMINAL CHARGE ARISING  
18 OUT OF THE ALLEGED ABUSE OR NEGLECT.

19 (B) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT THE  
20 PROVISIONS OF THIS SECTION.

21 [5-715.

22 (a) The Secretary of Human Resources shall adopt regulations necessary to  
23 protect the rights of persons suspected of abuse or neglect.

24 (b) Before the name of a person who is suspected of abuse or neglect is entered  
25 in a central registry, the person shall be given notice.

26 (c) (1) Except as provided in paragraph (3) of this subsection, on request by  
27 a person suspected of abuse or neglect, the Department shall hold an administrative  
28 hearing for the purpose of allowing the person to appeal the entry of the person's  
29 name in a central registry.

30 (2) The hearing shall be held in the county in which the person suspected  
31 of abuse or neglect resides.

32 (3) The name of a person adjudicated a child abuser may be entered in a  
33 central registry without an opportunity for a hearing under this subsection.

1 (d) The Department may not enter the name of a person in a central registry  
2 unless the person has:

3 (1) been adjudicated a child abuser;

4 (2) unsuccessfully appealed the entry of the person's name in the central  
5 registry under procedures established by the Department and this section; or

6 (3) failed to respond within 15 days to notice by the Department of the  
7 Department's intent to enter the person's name in a central registry.

8 (e) The Department without the necessity of a request shall remove the name  
9 of a person suspected of abuse or neglect from a central registry if no entry has been  
10 made for that person for 7 years after the entry of the person's name in a registry.]

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an  
12 emergency measure, is necessary for the immediate preservation of the public health  
13 and safety, has been passed by a ye and nay vote supported by three-fifths of all the  
14 members elected to each of the two Houses of the General Assembly, and shall take  
15 effect from the date it is enacted.