

HOUSE BILL 148
EMERGENCY BILL

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1999 Regular Session
9lr0163

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

Introduced and read first time: January 28, 1999

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 4, 1999

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring the disclosure of certain reports or records concerning
5 child abuse or neglect under certain circumstances; authorizing the disclosure of
6 certain reports or records concerning child abuse or neglect to certain local and
7 State officials; requiring a local department of social services to provide certain
8 notice and information to certain individuals under certain circumstances;
9 providing that a certain individual may request a certain contested case hearing
10 in the event of a finding of indicated child abuse or neglect; altering the deadline
11 for requesting a certain contested case hearing; providing that a certain
12 individual may request a certain conference in the event of a finding of
13 unsubstantiated child abuse or neglect; authorizing a certain individual to
14 request a contested case hearing under certain circumstances; establishing
15 certain appeal rights; authorizing requiring the Social Services Administration
16 of the Department of Human Resources to adopt certain regulations; ~~repealing~~
17 ~~the authority of the Department to adopt certain regulations regarding a central~~
18 ~~registry~~; requiring the local departments of social services to provide certain
19 appeal rights to certain individuals; authorizing a central registry to contain
20 certain information except under certain circumstances; authorizing the
21 Department of Human Resources or a local department of social services to
22 identify an individual as responsible for abuse or neglect in a central registry
23 under certain circumstances; requiring the Department to remove the
24 identification of an individual as responsible for abuse or neglect from the name
25 of the individual under certain circumstances; establishing that, except under
26 certain circumstances, information in a central registry may not be used as a
27 sole basis for responding to certain requests; establishing a certain criminal
28 penalty; authorizing the Secretary of Human Resources to adopt certain

1 regulations; making this Act an emergency measure certain stylistic and
 2 clarifying changes; defining certain terms; and generally relating to child abuse
 3 and neglect.

4 BY repealing and reenacting, with amendments,
 5 Article 88A - Department of Human Resources
 6 Section 6(b)
 7 Annotated Code of Maryland
 8 (1998 Replacement Volume)

9 BY repealing and reenacting, without amendments,
 10 Article 88A - Department of Human Resources
 11 Section 6(e)
 12 Annotated Code of Maryland
 13 (1998 Replacement Volume)

14 BY repealing and reenacting, with amendments,
 15 Article - Family Law
 16 Section 5-701, 5-706.1 and 5-707, and 5-714
 17 Annotated Code of Maryland
 18 (1999 Replacement Volume)

19 BY repealing
 20 Article - Family Law
 21 Section 5-706.2, 5-714, and 5-715 5-706.2 and 5-715
 22 Annotated Code of Maryland
 23 (1999 Replacement Volume)

24 ~~BY adding to~~
 25 ~~Article - Family Law~~
 26 ~~Section 5-714~~
 27 ~~Annotated Code of Maryland~~
 28 ~~(1999 Replacement Volume)~~

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

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

32 6.

33 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
 34 Article ~~and~~, § 6A of this subtitle, AND THIS SECTION, all records and reports
 35 concerning child abuse or neglect are confidential, and their unauthorized disclosure

1 is a criminal offense subject to the penalty set out in subsection (e) of this section.

2 Reports or records concerning child abuse or neglect ~~may be disclosed only~~:

3 (1) SHALL BE DISCLOSED:

4 (i) Under a court order; or

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

10 (2) MAY BE DISCLOSED ON REQUEST:

11 (I) To personnel of local or State departments of social services, law
12 enforcement personnel, and members of multidisciplinary case consultation teams,
13 who are investigating a report of known or suspected child abuse or neglect or who
14 are providing services to a child or family that is the subject of the report;

15 ~~(3)~~ (II) To local or State officials responsible for the administration of
16 [the] child protective [service] SERVICES or child care, FOSTER CARE, AND
17 ADOPTION licensing, APPROVAL, [and] OR regulations as necessary to carry out their
18 official functions;

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

23 ~~(5)~~ (IV) To a licensed practitioner who, or an agency, institution, or
24 program which is providing treatment or care to a child who is the subject of a report
25 of child abuse or neglect for a purpose relevant to the provision of the treatment or
26 care;

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

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

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

1 (e) Any offense against the provisions of this section shall be a misdemeanor
2 and shall be punishable by a fine not exceeding \$500 or imprisonment for not
3 exceeding 90 days, or both, in the discretion of the court.

4 **Article - Family Law**

5 5-701.

6 (a) In this subtitle the following words have the meanings indicated.

7 (b) "Abuse" means:

8 (1) the physical or mental injury of a child by any parent or other person
9 who has permanent or temporary care or custody or responsibility for supervision of a
10 child, or by any household or family member, under circumstances that indicate that
11 the child's health or welfare is harmed or at substantial risk of being harmed; or

12 (2) sexual abuse of a child, whether physical injuries are sustained or
13 not.

14 (c) "Administration" means the Social Services Administration of the
15 Department.

16 (D) "CENTRAL REGISTRY" MEANS ANY COMPONENT OF THE DEPARTMENT'S
17 CONFIDENTIAL COMPUTERIZED DATABASE THAT CONTAINS INFORMATION
18 REGARDING CHILD ABUSE AND NEGLECT INVESTIGATIONS.

19 [(d)] (E) "Child" means any individual under the age of 18 years.

20 [(e)] (F) "Court" means:

21 (1) the circuit court for a county sitting as a juvenile court; or

22 (2) in Montgomery County, the District Court sitting as a juvenile court.

23 [(f)] (G) (1) "Educator or human service worker" means any professional
24 employee of any correctional, public, parochial or private educational, health, juvenile
25 service, social or social service agency, institution, or licensed facility.

26 (2) "Educator or human service worker" includes:

27 (i) any teacher;

28 (ii) any counselor;

29 (iii) any social worker;

30 (iv) any caseworker; and

31 (v) any probation or parole officer.

1 [(g)] (H) "Family member" means a relative by blood, adoption, or marriage of
2 a child.

3 (I) "IDENTIFYING INFORMATION" MEANS THE NAME OF:

4 (1) THE CHILD WHO IS ALLEGED TO HAVE BEEN ABUSED OR
5 NEGLECTED;

6 (2) A MEMBER OF THE HOUSEHOLD OF THE CHILD;

7 (3) A PARENT OR LEGAL GUARDIAN OF THE CHILD; OR

8 (4) AN INDIVIDUAL SUSPECTED OF BEING RESPONSIBLE FOR ABUSE OR
9 NEGLECT OF THE CHILD.

10 [(h)] (J) (1) "Health practitioner" includes any person who is authorized to
11 practice healing under the Health Occupations Article or § 13-516 of the Education
12 Article.

13 (2) "Health practitioner" does not include an emergency medical
14 dispatcher.

15 [(i)] (K) "Household" means the location:

16 (1) in which the child resides;

17 (2) where the abuse or neglect is alleged to have taken place; or

18 (3) where the person suspected of abuse or neglect resides.

19 [(j)] (L) "Household member" means a person who lives with, or is a regular
20 presence in, a home of a child at the time of the alleged abuse or neglect.

21 [(k)] (M) "Indicated" means a finding that there is credible evidence, which
22 has not been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur.

23 [(l)] (N) (1) "Law enforcement agency" means a State, county, or municipal
24 police department, bureau, or agency.

25 (2) "Law enforcement agency" includes:

26 (i) a State, county, or municipal police department or agency;

27 (ii) a sheriff's office;

28 (iii) a State's Attorney's office; and

29 (iv) the Attorney General's office.

30 [(m)] (O) "Local department" means the department of social services that has
31 jurisdiction in the county;

1 (1) where the allegedly abused or neglected child lives; or
2 (2) if different, where the abuse or neglect is alleged to have taken place.

3 [(n)] (P) "Local State's Attorney" means the State's Attorney for the county:

4 (1) where the allegedly abused or neglected child lives; or
5 (2) if different, where the abuse or neglect is alleged to have taken place.

6 [(o)] (Q) "Mental injury" means the observable, identifiable, and substantial
7 impairment of a child's mental or psychological ability to function.

8 [(p)] (R) "Neglect" means the leaving of a child unattended or other failure to
9 give proper care and attention to a child by any parent or other person who has
10 permanent or temporary care or custody or responsibility for supervision of the child
11 under circumstances that indicate:

12 (1) that the child's health or welfare is harmed or placed at substantial
13 risk of harm; or

14 (2) mental injury to the child or a substantial risk of mental injury.

15 [(q)] (S) "Police officer" means any State or local officer who is authorized to
16 make arrests as part of the officer's official duty.

17 [(r)] (T) "Record" means the original or any copy of any documentary
18 material, in any form, including a report of suspected child abuse or neglect, that is
19 made by, received by, or received from the State, a county, or a municipal corporation
20 in the State, or any subdivision or agency concerning a case of alleged child abuse or
21 neglect.

22 [(s)] (U) "Report" means an allegation of abuse or neglect, made or received
23 under this subtitle.

24 [(t)] (V) "Ruled out" means a finding that abuse, neglect, or sexual abuse did
25 not occur.

26 [(u)] (W) (1) "Sexual abuse" means any act that involves sexual molestation
27 or exploitation of a child by a parent or other person who has permanent or temporary
28 care or custody or responsibility for supervision of a child, or by any household or
29 family member.

30 (2) "Sexual abuse" includes:

31 (i) incest, rape, or sexual offense in any degree;

32 (ii) sodomy; and

33 (iii) unnatural or perverted sexual practices.

1 [(v)] (X) "Unsubstantiated" means a finding that there is an insufficient
2 amount of evidence to support a finding of indicated or ruled out.

3 5-706.1.

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

8 (1) of the finding; ~~and~~

9 (2) [that the person may request an administrative hearing to] OF THE
10 OPPORTUNITY TO appeal the finding IN ACCORDANCE WITH THIS SECTION; AND

11 (3) IF THE INDIVIDUAL HAS BEEN FOUND RESPONSIBLE FOR INDICATED
12 ABUSE OR NEGLECT, THAT THE INDIVIDUAL MAY BE IDENTIFIED IN A CENTRAL
13 REGISTRY AS RESPONSIBLE FOR ABUSE OR NEGLECT UNDER THE CIRCUMSTANCES
14 SPECIFIED IN § 5-714(E) OF THIS SUBTITLE.

15 (b) (1) [A] IN THE CASE OF A FINDING OF INDICATED ABUSE OR NEGLECT,
16 ~~A person~~ AN INDIVIDUAL may request [an administrative hearing] A CONTESTED
17 CASE HEARING TO APPEAL THE FINDING IN ACCORDANCE WITH TITLE 10, SUBTITLE
18 2 OF THE STATE GOVERNMENT ARTICLE by responding to the notice of the local
19 department of ~~social services~~ in writing within ~~{60}~~ 30 days.

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

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

24 (1) review all records and reports concerning the alleged abuse or
25 neglect; and

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

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

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

35 [(g) (II) If after final disposition of the criminal charge, the ~~person~~
36 INDIVIDUAL requesting the hearing is found guilty of any criminal charge arising out

1 of the alleged abuse or neglect, the Office of Administrative Hearings shall dismiss
2 the administrative appeal.

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

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

10 (C) (1) IN THE CASE OF A FINDING OF UNSUBSTANTIATED ABUSE OR
11 NEGLECT, ~~A PERSON AN INDIVIDUAL~~ MAY REQUEST A CONFERENCE WITH A
12 SUPERVISOR IN THE LOCAL DEPARTMENT BY RESPONDING TO THE NOTICE OF THE
13 LOCAL DEPARTMENT ~~OF SOCIAL SERVICES~~ IN WRITING WITHIN ~~30~~ 60 DAYS.

14 (2) IN RESPONSE TO A TIMELY REQUEST FOR A CONFERENCE, A LOCAL
15 DEPARTMENT SUPERVISOR SHALL SCHEDULE A CONFERENCE, TO OCCUR WITHIN 30
16 DAYS AFTER THE SUPERVISOR RECEIVES THE REQUEST, TO ALLOW THE ~~PERSON~~
17 INDIVIDUAL AN OPPORTUNITY TO REVIEW THE REDACTED RECORD AND REQUEST
18 CORRECTIONS OR TO SUPPLEMENT THE RECORD.

19 (3) WITHIN 10 DAYS AFTER THE CONFERENCE, THE LOCAL
20 DEPARTMENT SHALL SEND TO THE ~~PERSON~~ INDIVIDUAL:

21 (I) A BRIEF WRITTEN SUMMARY OF THE CONFERENCE AND OF
22 ANY MODIFICATIONS TO BE MADE IN THE RECORD; AND

23 (II) NOTICE OF THE INDIVIDUAL'S RIGHT TO REQUEST A
24 CONTESTED CASE HEARING IN ACCORDANCE WITH PARAGRAPH (4) OF THIS
25 SUBSECTION.

26 (4) (I) THE ~~PERSON~~ INDIVIDUAL MAY REQUEST A CONTESTED CASE
27 HEARING IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION TO APPEAL THE
28 OUTCOME OF THE CONFERENCE BY RESPONDING TO THE SUMMARY IN WRITING
29 WITHIN ~~30~~ 60 DAYS.

30 (II) IF THE INDIVIDUAL DOES NOT RECEIVE THE WRITTEN
31 SUMMARY AND NOTICE SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION WITHIN
32 20 DAYS, THE INDIVIDUAL MAY REQUEST A CONTESTED CASE HEARING.

33 (III) AN INDIVIDUAL MAY REQUEST A CONTESTED CASE HEARING IN
34 THE CASE OF A FINDING OF UNSUBSTANTIATED ABUSE OR NEGLECT ONLY AS
35 PROVIDED IN THIS PARAGRAPH.

36 (D) IN THE CASE OF AN UNEXPUNGED FINDING OF INDICATED OR
37 UNSUBSTANTIATED ABUSE OR NEGLECT MADE PRIOR TO JUNE 1, 1999, THE LOCAL
38 DEPARTMENT SHALL PROVIDE THE INDIVIDUAL WITH AN OPPORTUNITY TO APPEAL
39 THE FINDING IN ACCORDANCE WITH THIS SECTION IF THE INDIVIDUAL:

- 1 (1) REQUESTS SUCH AN APPEAL;
2 (2) HAS NOT BEEN OFFERED AN OPPORTUNITY TO REQUEST A
3 CONTESTED CASE HEARING; AND
4 (3) HAS NOT BEEN FOUND GUILTY OF ANY CRIMINAL CHARGE ARISING
5 OUT OF THE ALLEGED ABUSE OR NEGLECT.

6 [5-706.2.

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

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

17 (c) After the administrative law judge determines that the information
18 contained in the report or record is sufficient and accurate for purposes of
19 determining an issue in a proceeding, the administrative law judge may provide the
20 full report or record to the person who is the subject of the report or record, provided
21 that provisions are made for the protection of the identity of the person who provided
22 the information in the report or record or any other person whose life or safety is
23 likely to be endangered by the provision of the full report or record.

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

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

31 5-707.

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

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

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

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

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

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

7 (1) within 5 years after the date of referral if the investigation under §
8 5-706 of this subtitle concludes that the report is unsubstantiated, and no further
9 reports of abuse or neglect are received during the 5 years; and

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

12 {5-714.

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

15 (b) The respective local departments throughout this State shall provide the
16 information for ~~the~~ A central registry.

17 (c) The information in ~~the~~ A central registry shall be at the disposal of:

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

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

21 (3) law enforcement personnel who are investigating a report of
22 suspected abuse or neglect.}

23 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND
24 SUBJECT TO SUBSECTION (E) OF THIS SECTION, A CENTRAL REGISTRY MAY CONTAIN
25 IDENTIFYING INFORMATION RELATED TO AN INVESTIGATION OF ABUSE OR
26 NEGLECT.

27 (2) A CENTRAL REGISTRY MAY NOT CONTAIN IDENTIFYING
28 INFORMATION RELATED TO AN INVESTIGATION OF ABUSE OR NEGLECT IF:

29 (I) ABUSE OR NEGLECT HAS BEEN RULED OUT; OR

30 (II) THE ABUSE OR NEGLECT FINDING HAS BEEN EXPUNGED IN
31 ACCORDANCE WITH § 5-707(B)(1) OF THIS SUBTITLE.

32 (E) (1) THE DEPARTMENT OR A LOCAL DEPARTMENT MAY IDENTIFY AN
33 INDIVIDUAL AS RESPONSIBLE FOR ABUSE OR NEGLECT IN A CENTRAL REGISTRY
34 ONLY IF THE INDIVIDUAL:

1 (I) HAS BEEN FOUND GUILTY OF ANY CRIMINAL CHARGE ARISING
2 OUT OF THE ALLEGED ABUSE OR NEGLECT; OR

3 (II) HAS BEEN FOUND RESPONSIBLE FOR INDICATED ABUSE OR
4 NEGLECT AND HAS:

5 1. UNSUCCESSFULLY APPEALED THE FINDING IN
6 ACCORDANCE WITH THE PROCEDURES ESTABLISHED UNDER § 5-706.1 OF THIS
7 SUBTITLE; OR

8 2. FAILED TO EXERCISE THE INDIVIDUAL'S APPEAL RIGHTS
9 WITHIN THE TIME FRAMES SPECIFIED IN § 5-706.1 OF THIS SUBTITLE, TITLE 10,
10 SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE, OR THE MARYLAND RULES.

11 (2) THE DEPARTMENT WITHOUT THE NECESSITY OF A REQUEST SHALL
12 REMOVE FROM THE NAME OF AN INDIVIDUAL DESCRIBED IN PARAGRAPH (1) OF THIS
13 SUBSECTION THE IDENTIFICATION OF THAT INDIVIDUAL AS RESPONSIBLE FOR
14 ABUSE OR NEGLECT IF NO ENTRY HAS BEEN MADE FOR THAT INDIVIDUAL FOR 7
15 YEARS AFTER THE ENTRY OF THE INDIVIDUAL'S NAME IN A REGISTRY.

16 (F) (1) EXCEPT FOR INFORMATION ENTERED IN ACCORDANCE WITH
17 SUBSECTION (E) OF THIS SECTION, INFORMATION IN A CENTRAL REGISTRY MAY NOT
18 BE USED AS A SOLE BASIS FOR RESPONDING TO ANY REQUEST FOR BACKGROUND
19 INFORMATION FOR EMPLOYMENT OR VOLUNTARY SERVICE.

20 (2) AN OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OR A LOCAL
21 DEPARTMENT WHO RELEASES INFORMATION FROM A CENTRAL REGISTRY IN
22 VIOLATION OF PARAGRAPH (1) OF THIS SUBSECTION IS SUBJECT TO THE PENALTY
23 PROVIDED IN ARTICLE 88A, § 6(E) OF THE CODE.

24 (G) THE SECRETARY OF HUMAN RESOURCES:

25 (1) SHALL ADOPT REGULATIONS NECESSARY TO PROTECT THE RIGHTS
26 OF INDIVIDUALS SUSPECTED OF ABUSE OR NEGLECT; AND

27 (2) MAY ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
28 SECTION.

29 ~~5-714.~~

30 ~~(A) THE LOCAL DEPARTMENT OF SOCIAL SERVICES SHALL PROVIDE AN~~
31 ~~INDIVIDUAL WITH AN OPPORTUNITY TO APPEAL AN UNEXPUNGED FINDING OF~~
32 ~~INDICATED OR UNSUBSTANTIATED ABUSE OR NEGLECT IN ACCORDANCE WITH §~~
33 ~~5-706.1 OF THIS SUBTITLE IF THE INDIVIDUAL:~~

34 ~~(1) REQUESTS SUCH AN APPEAL;~~

35 ~~(2) HAS NOT BEEN OFFERED AN OPPORTUNITY TO REQUEST A~~
36 ~~CONTESTED CASE HEARING; AND~~

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

3 ~~(B) THE ADMINISTRATION SHALL ADOPT REGULATIONS TO CARRY OUT THE~~
4 ~~PROVISIONS OF THIS SECTION.~~

5 ~~{5-715.~~

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

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

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

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

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

18 ~~(d) The Department may not enter the name of a person in a central registry~~
19 ~~unless the person has:~~

20 ~~(1) been adjudicated a child abuser;~~

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an
29 ~~emergency measure, is necessary for the immediate preservation of the public health~~
30 ~~and safety, has been passed by a yea and nay vote supported by three-fifths of all the~~
31 ~~members elected to each of the two Houses of the General Assembly, and shall take~~
32 ~~effect from the date it is enacted shall take effect June 1, 1999.~~

