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By: **Delegates Menes and Goldwater**  
Introduced and read first time: January 14, 2002  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Sexual Abuse of Children - Investigations - Employees of Schools or Child**  
3                                   **Care Facilities**

4 FOR the purpose of authorizing a local department of social services to disclose  
5     certain child abuse or neglect reports or records to a person responsible for the  
6     administration of a licensed child care facility or public or private school  
7     following an investigation of child sexual abuse; requiring the local department  
8     of social services or appropriate law enforcement agency to include certain  
9     recommendations in its report of an investigation of suspected sexual abuse; and  
10    generally relating to the investigation of certain employees in child sexual abuse  
11    cases.

12 BY repealing and reenacting, with amendments,  
13    Article 88A - Department of Human Resources  
14    Section 6  
15    Annotated Code of Maryland  
16    (1998 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,  
18    Article - Family Law  
19    Section 5-706(i)  
20    Annotated Code of Maryland  
21    (1999 Replacement Volume and 2001 Supplement)

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

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

25 6.

26     (a)     Except in accordance with a court order or to an authorized officer or  
27     employee of the State, another state or local government, or the United States, or a  
28     fiduciary institution having a right thereto in an official capacity, and as necessary to

1 discharge responsibilities to administer public assistance, medical assistance, or  
2 social services programs, it shall be unlawful for any person or persons to divulge or  
3 make known in any manner any information concerning any applicant for or recipient  
4 of social services, child welfare services, cash assistance, food stamps, or medical  
5 assistance, directly or indirectly derived from the records, papers, files, investigations  
6 or communications of the State, county or city, or subdivisions or agencies thereof, or  
7 acquired in the course of the performance of official duties.

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

13 (1) Shall be disclosed:

14 (i) Under a court order; or

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

20 (2) May be disclosed [on request]:

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

25 (ii) To local or State officials responsible for the administration of  
26 child protective services or child care, foster care, and adoption licensing, approval, or  
27 regulations as necessary to carry out their official functions;

28 (iii) To the State Council on Child Abuse and Neglect, the State  
29 Citizens Review Board for Children, or their designees, or a child fatality review team  
30 as necessary to carry out their official functions;

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

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

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

5 (vii) To the appropriate public school superintendent for the purpose  
6 of carrying out appropriate personnel or administrative actions following a report of  
7 suspected child abuse involving a student committed by:

8 1. A public school employee in that school system;

9 2. An independent contractor who supervises or works  
10 directly with students in that school system; or

11 3. An employee of an independent contractor, including a bus  
12 driver or bus assistant, who supervises or works directly with students in that school  
13 system; [or]

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

19 (IX) TO THE INDIVIDUAL RESPONSIBLE FOR THE ADMINISTRATION  
20 OF A LICENSED CHILD CARE FACILITY OR PUBLIC OR PRIVATE SCHOOL FOLLOWING  
21 AN INVESTIGATION OF CHILD SEXUAL ABUSE ALLEGED TO HAVE BEEN COMMITTED  
22 BY A CURRENT OR PREVIOUS EMPLOYEE OR VOLUNTEER OF THE FACILITY OR  
23 SCHOOL FOR THE PURPOSE OF:

24 1. CARRYING OUT APPROPRIATE PERSONNEL ACTIONS; OR

25 2. NOTIFYING A LOCAL DEPARTMENT OF SOCIAL SERVICES  
26 OR LAW ENFORCEMENT AGENCY IF THE INDIVIDUAL HAS REASON TO BELIEVE THAT  
27 A CHILD IN THE FACILITY'S OR SCHOOL'S CARE HAS BEEN SUBJECTED TO SEXUAL  
28 ABUSE.

29 (c) Nothing in this section shall be construed to prohibit:

30 (1) The publication, for administrative or research purposes, of statistics  
31 or other data so classified as to prevent the identification of particular persons or  
32 cases;

33 (2) The Department of Human Resources from obtaining an individual's  
34 financial records from a fiduciary institution in the course of verifying the  
35 individual's eligibility for public assistance; or

36 (3) Disclosures as permitted by § 1-303 of the Financial Institutions  
37 Article.

1 (d) The Department of Human Resources shall issue regulations governing  
2 access to and use of confidential information which is in the possession of the  
3 Department or local departments of social services.

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

7 **Article - Family Law**

8 5-706.

9 (i) (1) Within 5 business days after completion of the investigation of  
10 suspected abuse, the local department and the appropriate law enforcement agency, if  
11 that agency participated in the investigation, shall make a complete written report of  
12 its findings to the local State's Attorney.

13 (2) IF THE INVESTIGATION INVOLVED AN ALLEGATION OF SEXUAL  
14 ABUSE, THE LOCAL DEPARTMENT OR APPROPRIATE LAW ENFORCEMENT AGENCY, IF  
15 THAT AGENCY PARTICIPATED IN THE INVESTIGATION, SHALL INCLUDE IN THE  
16 REPORT A RECOMMENDATION AS TO WHETHER A CRIMINAL OR JUVENILE FINAL  
17 DISPOSITION RESULTING FROM THE INCIDENT SHOULD INCLUDE A PROVISION  
18 PROHIBITING THE PERSON ALLEGED TO HAVE SEXUALLY ABUSED A CHILD FROM  
19 EMPLOYMENT AT A FACILITY IDENTIFIED IN § 5-561(B) OF THIS ARTICLE OR  
20 OTHERWISE WORKING WITH OR VOLUNTEERING WITH CHILDREN.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2002.