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By: **Delegates Pitkin, Conroy, Hubbard, and Rosso**  
Introduced and read first time: February 20, 2002  
Assigned to: Rules and Executive Nominations

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A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse Reform Act of 2002**

3 FOR the purpose of repealing certain provisions of law relating to contested case  
4 hearings to appeal certain findings of child abuse and neglect; requiring certain  
5 judges to attend a certain seminar; providing a civil penalty for certain persons  
6 who fail to notify the local department of social services or law enforcement  
7 agency of suspected child abuse; requiring local governments to establish local  
8 citizens review panels; establishing the membership and duties of the citizens  
9 review panels; requiring the local department of social services to reprimand  
10 employees, suspend employees without pay, place employees on probation, or  
11 require employees to attend a seminar under certain circumstances; prohibiting  
12 a court from granting custody or unsupervised visitation to a party under  
13 certain circumstances; and generally relating to child abuse.

14 BY repealing  
15 Article - Family Law  
16 Section 5-706.1  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2001 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - Courts and Judicial Proceedings  
21 Section 3-806  
22 Annotated Code of Maryland  
23 (1998 Replacement Volume and 2001 Supplement)  
24 (As enacted by Chapter 29 of the Acts of the General Assembly of 2001)

25 BY repealing and reenacting, with amendments,  
26 Article - Family Law  
27 Section 5-704 and 9-101  
28 Annotated Code of Maryland  
29 (1999 Replacement Volume and 2001 Supplement)

1 BY adding to  
2 Article - Family Law  
3 Section 5-706.1  
4 Annotated Code of Maryland  
5 (1999 Replacement Volume and 2001 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
7 MARYLAND, That Section(s) 5-706.1 of Article - Family Law of the Annotated Code  
8 of Maryland be repealed.

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

11 **Article - Courts and Judicial Proceedings**

12 3-806.

13 (a) (1) In every county, one or more judges shall be assigned specially to  
14 handle cases arising under this subtitle and Subtitle 8A of this title.

15 (2) The assignment shall be made by the circuit administrative judge,  
16 subject to the approval of the Chief Judge of the Court of Appeals.

17 (3) The judges so assigned are not subject to an automatic regular  
18 rotation.

19 (b) To the extent feasible, the judges assigned under this section shall:

20 (1) Desire to be so assigned;

21 (2) Have the temperament necessary to deal properly with the cases and  
22 children likely to come before the court; and

23 (3) Have special experience or training in juvenile causes and the  
24 problems of children likely to come before the court.

25 (C) (1) A JUDGE ASSIGNED UNDER THIS SECTION SHALL ATTEND A CHILD  
26 ABUSE UPDATE SEMINAR AT LEAST ONCE EACH YEAR.

27 (2) THE SEMINAR MUST INCLUDE THE LATEST INFORMATION  
28 IDENTIFYING:

29 (I) BEST PRACTICES IN CHILD ABUSE CASES;

30 (II) AT-RISK CHILDREN;

31 (III) METHODS OF IMPROVING CHILD QUESTIONING AND  
32 TESTIMONY;

1 (IV) WHAT JUDGES SHOULD KNOW ABOUT EARLY CHILDHOOD  
2 INTERVENTION; AND

3 (V) THE CORRELATION BETWEEN DOMESTIC VIOLENCE AND CHILD  
4 ABUSE.

5 **Article - Family Law**

6 5-704.

7 (a) Notwithstanding any other provision of law, including any law on  
8 privileged communications, each health practitioner, police officer, educator, or  
9 human service worker, acting in a professional capacity:

10 (1) (i) who has reason to believe that a child has been subjected to  
11 abuse, shall notify the local department or the appropriate law enforcement agency;  
12 or

13 (ii) who has reason to believe that a child has been subjected to  
14 neglect, shall notify the local department; and

15 (2) if acting as a staff member of a hospital, public health agency, child  
16 care institution, juvenile detention center, school, or similar institution, shall  
17 immediately notify and give all information required by this section to the head of the  
18 institution or the designee of the head.

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

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

23 1. to the local department or appropriate law enforcement  
24 agency if the person has reason to believe that the child has been subjected to abuse;  
25 or

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

28 (ii) a written report:

29 1. to the local department not later than 48 hours after the  
30 contact, examination, attention, or treatment that caused the individual to believe  
31 that the child had been subjected to abuse or neglect; and

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

34 (2) (i) An agency to which an oral report of suspected abuse is made  
35 under paragraph (1) of this subsection shall immediately notify the other agency.

1 (ii) This paragraph does not prohibit a local department and an  
2 appropriate law enforcement agency from agreeing to cooperative arrangements.

3 (c) Insofar as is reasonably possible, an individual who makes a report under  
4 this section shall include in the report the following information:

5 (1) the name, age, and home address of the child;

6 (2) the name and home address of the child's parent or other person who  
7 is responsible for the child's care;

8 (3) the whereabouts of the child;

9 (4) the nature and extent of the abuse or neglect of the child, including  
10 any evidence or information available to the reporter concerning possible previous  
11 instances of abuse or neglect; and

12 (5) any other information that would help to determine:

13 (i) the cause of the suspected abuse or neglect; and

14 (ii) the identity of any individual responsible for the abuse or  
15 neglect.

16 (D) A PERSON WHO FAILS TO REPORT SUSPECTED ABUSE UNDER THIS  
17 SECTION SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED \$500 FOR EACH  
18 VIOLATION.

19 5-706.1.

20 (A) A LOCAL GOVERNMENT SHALL ESTABLISH A LOCAL CITIZENS REVIEW  
21 PANEL TO REVIEW THE LOCAL DEPARTMENT'S WRITTEN REPORT AND FINDINGS  
22 UPON THE COMPLETION OF AN INVESTIGATION OF SUSPECTED CHILD ABUSE.

23 (B) THE MEMBERS AND CHAIRMAN OF A LOCAL CITIZENS REVIEW PANEL  
24 SHALL BE APPOINTED BY THE LOCAL GOVERNING BODY.

25 (C) MEMBERSHIP ON A LOCAL CITIZENS REVIEW PANEL SHALL BE  
26 REPRESENTATIVE OF THE LOCAL JURISDICTION AND INCLUDE:

27 (1) INDIVIDUALS WITH EXPERTISE IN THE PREVENTION AND  
28 TREATMENT OF CHILD ABUSE AND NEGLECT, SUCH AS CHILD ADVOCATES,  
29 VOLUNTEERS OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM,  
30 ATTORNEYS WHO REPRESENT CHILDREN, PARENT AND CONSUMER  
31 REPRESENTATIVES, LAW ENFORCEMENT REPRESENTATIVES, AND HEALTH AND  
32 HUMAN SERVICES PROFESSIONALS; AND

33 (2) PARENTS OR GUARDIANS THAT HAVE BEEN SUBJECTED TO AN  
34 INVESTIGATION UNDER THIS SUBTITLE.

35 (D) A LOCAL PANEL SHALL:

1 (1) EVALUATE THE EXTENT TO WHICH STATE AND LOCAL AGENCIES IN  
2 THAT JURISDICTION ARE EFFECTIVELY FULFILLING THEIR RESPONSIBILITIES IN  
3 ACCORDANCE WITH THE CHILD PROTECTION STANDARDS AND THE STATE PLAN  
4 UNDER 42 U.S.C. § 5106A(B) AND ANY OTHER CRITERIA THAT THE PANEL CONSIDERS  
5 IMPORTANT FOR THE PROTECTION OF CHILDREN;

6 (2) INVESTIGATE ANY COMPLAINTS REGARDING THE LOCAL  
7 DEPARTMENT AND THE FAILURE OF EMPLOYEES OF THE LOCAL DEPARTMENT TO  
8 ADHERE TO THE PROVISIONS OF THIS SUBTITLE AND THE APPLICABLE  
9 REGULATIONS WHILE INVESTIGATING SUSPECTED CHILD ABUSE; AND

10 (3) INVESTIGATE ANY CASES WHERE THERE HAVE BEEN THREE OR  
11 MORE REPORTS OF SUSPECTED CHILD SEXUAL ABUSE INVOLVING A CHILD UNDER 10  
12 YEARS OF AGE.

13 (E) IF THE LOCAL PANEL FINDS THAT ANY EMPLOYEE OR SUPERVISOR IN THE  
14 LOCAL DEPARTMENT FAILED TO FOLLOW THE PROVISIONS OF THIS SUBTITLE, THE  
15 LOCAL DEPARTMENT SHALL:

16 (1) REPRIMAND THE EMPLOYEE;

17 (2) SUSPEND THE EMPLOYEE WITHOUT PAY;

18 (3) PLACE THE EMPLOYEE ON PROBATION; OR

19 (4) REQUIRE THE EMPLOYEE TO ATTEND A POLICY DEVELOPMENT  
20 SEMINAR INSTRUCTING THE EMPLOYEE ON HOW TO PROPERLY INVESTIGATE  
21 SUSPECTED CHILD ABUSE UNDER THE LAWS OF THIS STATE.

22 (F) IF A LOCAL PANEL FINDS THAT AN EMPLOYEE OF THE LOCAL  
23 DEPARTMENT ON MORE THAN THREE OCCASIONS FAILED TO FOLLOW THE  
24 PROVISIONS OF THIS SUBTITLE, THE LOCAL DEPARTMENT SHALL TERMINATE THE  
25 EMPLOYEE.

26 9-101.

27 (a) [In any] EXCEPT AS PROVIDED UNDER SUBSECTION (D) OF THIS SECTION,  
28 IN A custody or visitation proceeding, if the court has reasonable grounds to believe  
29 that a child has been abused or neglected by a party to the proceeding, the court shall  
30 determine whether abuse or neglect is likely to occur if custody or visitation rights are  
31 granted to the party.

32 (b) Unless the court specifically finds that there is no likelihood of further  
33 child abuse or neglect by the party, the court shall deny custody or visitation rights to  
34 that party, except that the court may approve a supervised visitation arrangement  
35 that assures the safety and the physiological, psychological, and emotional well-being  
36 of the child.

37 (C) A COURT SHALL PRESERVE FOR REVIEW THE MATERIAL FACTS THAT THE  
38 COURT RELIED ON IN ITS ORDER AND HOW THIS SECTION WAS APPLIED.

1 (D) THE COURT MAY NOT GRANT CUSTODY OR UNSUPERVISED VISITATION TO  
2 A PARENT WHO HAS, WITHIN THE 7 YEARS PRIOR TO THE FILING OF THE CUSTODY  
3 OR VISITATION PROCEEDING:

4 (1) BEEN FOUND TO HAVE COMMITTED ABUSE UNDER TITLE 4,  
5 SUBTITLE 5 OF THE FAMILY LAW ARTICLE; OR

6 (2) CREDIBLE EVIDENCE OF SUBSTANCE ABUSE.

7 (E) THE COURT SHALL FIND THAT ANY LEVEL OF VIOLENCE OR ABUSE IS  
8 DETRIMENTAL TO THE CHILD.

9 (F) IF A PARTY APPEALS AN ORDER TO MODIFY CUSTODY, THE COURT SHALL  
10 STAY THE ORDER UNDER APPEAL IF THE ORDER AWARDED CUSTODY TO AN  
11 ALLEGED CHILD ABUSER.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2002.