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2003 Regular Session (3lr0417)

ENROLLED BILL

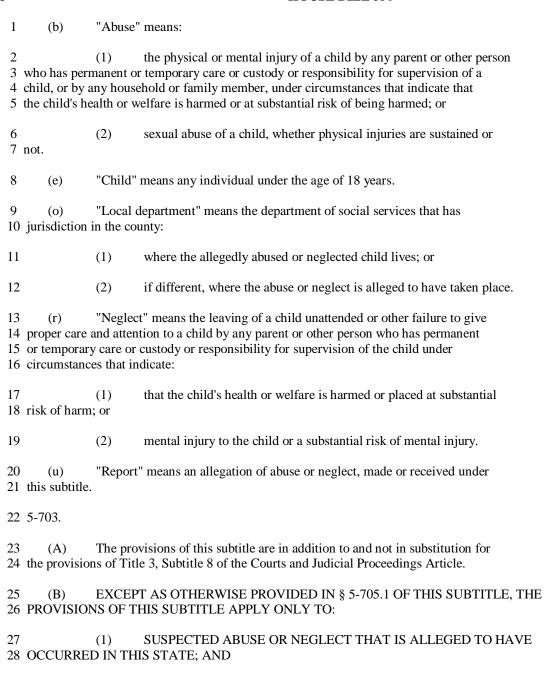
-- Judiciary/Judicial Proceedings --

Introd	luced by Delegates Menes and Hixson	
	Read and Examined by Proofreaders:	
		Proofreader.
	d with the Great Seal and presented to the Governor, for his approval this day of at o'clock,M.	Proofreader.
		Speaker.
	CHAPTER	
1 A	N ACT concerning	
2 3	Family Law - Reporting of Out-of-State Child Abuse <u>and Neglect</u> and <u>Neglect</u>	
4 F0 5 6 7 8 9 10 11 12 13 14 15 16 17	OR the purpose of requiring the reporting of certain out-of-state child abuse <u>and</u> <u>neglect</u> and neglect under certain circumstances; specifying the procedures for the reporting of certain out-of-state child abuse <u>and neglect</u> and neglect; <u>establishing that a certain person is not required to report certain out-of-state</u> <u>child abuse under certain circumstances;</u> requiring a local department of social services to forward a report of certain out-of-state child abuse <u>or neglect</u> or <u>neglect</u> to a certain out-of-state agency under certain circumstances; specifying the applicability of certain provisions of law; establishing that certain reporting requirements apply only to certain persons in this State; providing certain immunity for certain persons under certain circumstances; establishing that certain investigation procedures apply only to certain in-state child abuse or neglect; requiring a local department that receives a report concerning certain <u>out-of-state</u> child abuse or neglect to take certain actions; <u>making certain</u> <u>clarifying and conforming changes;</u> defining a certain term; and generally	

- 1 relating to child abuse and neglect. BY repealing and reenacting, with amendments, 2 3 Article - Courts and Judicial Proceedings 4 Section 5-620 5 Annotated Code of Maryland 6 (2002 Replacement Volume) 7 BY repealing and reenacting, without amendments, Article - Family Law 8 9 Section 5-701(b), (e), (o), (r), and (u) and 5-707(a) Annotated Code of Maryland 10 (1999 Replacement Volume and 2002 Supplement) 11 12 BY repealing and reenacting, with amendments, 13 Article - Family Law 14 Section 5-701(a), 5-703, 5-704, 5-705, 5-706, and 5-708 Annotated Code of Maryland 15 16 (1999 Replacement Volume and 2002 Supplement) 17 BY adding to Article - Family Law 18 Section 5-705.1 19 20 Annotated Code of Maryland (1999 Replacement Volume and 2002 Supplement) 21 22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 23 MARYLAND, That the Laws of Maryland read as follows: 24 **Article - Courts and Judicial Proceedings** 25 5-620. Any person who in good faith makes or participates in making a report of abuse 26 27 or neglect under § 5-704 [or], § 5-705, OR § 5-705.1 of the Family Law Article or 28 participates in an investigation or a resulting judicial proceeding is immune from any 29 civil liability or criminal penalty that would otherwise result from making or 30 participating in a report of abuse or neglect or participating in an investigation or a 31 resulting judicial proceeding. 32 **Article - Family Law** 33 5-701.
- 34 (a) [In] EXCEPT AS OTHERWISE PROVIDED IN § 5-705.1 OF THIS SUBTITLE, IN
- 35 this subtitle the following words have the meanings indicated.

29

31 TO HAVE OCCURRED.



SUSPECTED ABUSE OR NEGLECT OF A CHILD WHO LIVES IN THIS

30 STATE, REGARDLESS OF WHERE THE SUSPECTED ABUSE OR NEGLECT IS ALLEGED

1 5-704.

	privileged communica	ations, ea	any other provision of law, including any law on ch health practitioner, police officer, educator, or n a professional capacity IN THIS STATE:
	abuse, shall notify the or	(i) local dep	who has reason to believe that a child has been subjected to partment or the appropriate law enforcement agency;
8 9	neglect, shall notify th	(ii) ne local d	who has reason to believe that a child has been subjected to epartment; and
12		nile deten nd give a	as a staff member of a hospital, public health agency, child tion center, school, or similar institution, shall Il information required by this section to the head of the he head.
14 15	(b) (1) subsection (a) of this		vidual who notifies the appropriate authorities under hall make:
16 17	possible:	(i)	an oral report, by telephone or direct communication, as soon as
	agency if the person l	has reaso	1. to the local department or appropriate law enforcement n to believe that the child has been subjected to abuse;
21 22	that the child has bee	n subject	2. to the local department if the person has reason to believe ed to neglect; and
23		(ii)	a written report:
			1. to the local department not later than 48 hours after the n, or treatment that caused the individual to believe ed to abuse or neglect; and
27 28	has reason to believe	that the c	2. with a copy to the local State's Attorney if the individual child has been subjected to abuse.
29 30	(2) under paragraph (1) ((i) of this sub	An agency to which an oral report of suspected abuse is made osection shall immediately notify the other agency.
31 32	appropriate law enfor	(ii)	This paragraph does not prohibit a local department and an agency from agreeing to cooperative arrangements.
33 34			onably possible, an individual who makes a report under e report the following information:
35	(1)	the name	e age and home address of the child:

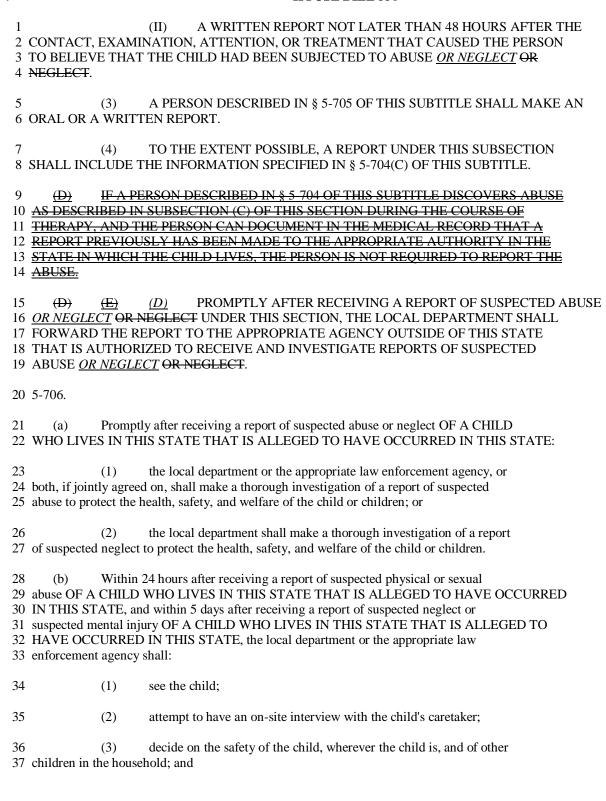
1 2	(2) is responsible for the	the name and home address of the child's parent or other person who child's care;			
3	(3)	the whe	the whereabouts of the child;		
	(4) any evidence or info instances of abuse or	the nature and extent of the abuse or neglect of the child, including mation available to the reporter concerning possible previous neglect; and			
7	(5)	any othe	er information that would help to determine:		
8		(i)	the cause of the suspected abuse or neglect; and		
9 10	neglect.	(ii)	the identity of any individual responsible for the abuse or		
11	5-705.				
14 15	communications, a possible officer, or educator	Except as provided in paragraphs (2) and (3) of this subsection, y other provision of law, including a law on privileged person IN THIS STATE other than a health practitioner, police or human service worker who has reason to believe that a child to abuse or neglect shall:			
17 18	to abuse, notify the	(i) local depa	if the person has reason to believe the child has been subjected artment or the appropriate law enforcement agency; or		
19 20	to neglect, notify the	(ii) e local dep	if the person has reason to believe the child has been subjected partment.		
21 22	(2) subsection:	A perso	n is not required to provide notice under paragraph (1) of this		
23 24	Courts Article;	(i)	in violation of the privilege described under § 9-108 of the		
	by a client to the client; or	(ii) if the notice would disclose matter communicated in confidence the client's attorney or other information relating to the representation or			
28		(iii)	in violation of any constitutional right to assistance of counsel.		
31	9 (3) A minister of the gospel, clergyman, or priest of an established church 0 of any denomination is not required to provide notice under paragraph (1) of this 1 subsection if the notice would disclose matter in relation to any communication 2 described in § 9-111 of the Courts Article and:				
			the communication was made to the minister, clergyman, or ter in the course of discipline enjoined by the church to n, or priest belongs; and		

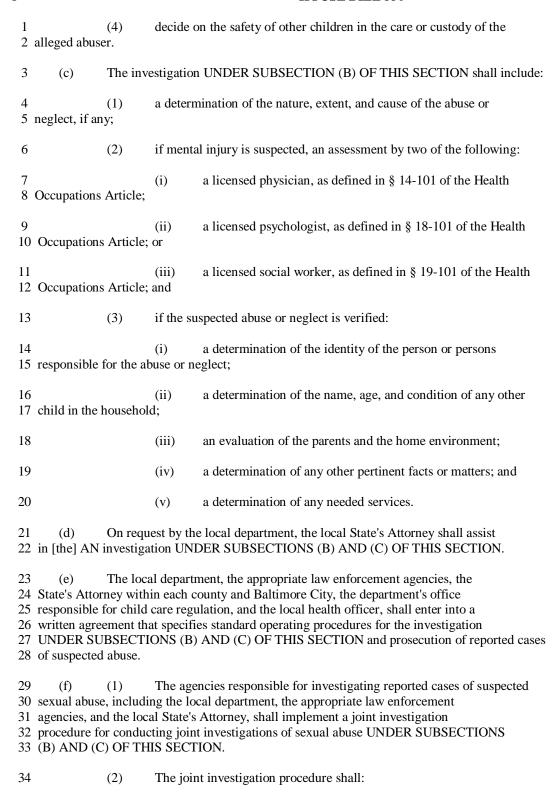
34

(I) 35 COMMUNICATION, AS SOON AS POSSIBLE; AND

HOUSE BILL 550 1 the minister, clergyman, or priest is bound to maintain the (ii) 2 confidentiality of that communication under canon law, church doctrine, or practice. 3 An agency to which a report of suspected abuse is made under 4 subsection (a) of this section shall immediately notify the other agency. This subsection does not prohibit a local department and an 6 appropriate law enforcement agency from agreeing to cooperative arrangements. 7 A report made under subsection (a) of this section may be oral or in (c) 8 writing. 9 To the extent possible, a report made under subsection (a) of this 10 section shall include the information required by § 5-704(c) of this subtitle. A report made under subsection (a) of this section shall be regarded 12 as a report within the provisions of this subtitle, whether or not the report contains 13 all of the information required by § 5-704(c) of this subtitle. 14 5-705.1. IN THIS SECTION. "LOCAL DEPARTMENT" MEANS A DEPARTMENT OF 15 (A) 16 SOCIAL SERVICES FOR A COUNTY IN THIS STATE. THE FOLLOWING PROVISIONS OF THIS SUBTITLE SHALL APPLY TO THE 17 18 REPORTING OF SUSPECTED ABUSE OR NEGLECT OR NEGLECT UNDER THIS SECTION: EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE 19 (1) 20 DEFINITIONS SET FORTH IN § 5-701 OF THIS SUBTITLE; 21 THE PROVISIONS RELATING TO THE CONFIDENTIALITY OF REPORTS 22 SPECIFIED IN § 5-707(A)(1) AND (2) OF THIS SUBTITLE; AND 23 THE PROVISIONS RELATING TO IMMUNITY FROM CIVIL LIABILITY OR (3) 24 CRIMINAL PENALTY SPECIFIED IN § 5-708 OF THIS SUBTITLE. 25 (C) (1) IF THE EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, 26 IF SUSPECTED ABUSE OR NEGLECT OR NEGLECT IS ALLEGED TO HAVE OCCURRED 27 OUTSIDE OF THIS STATE AND THE VICTIM IS CURRENTLY A CHILD WHO LIVES 28 OUTSIDE OF THIS STATE, A PERSON WHO WOULD BE REQUIRED TO REPORT 29 SUSPECTED ABUSE <u>OR NEGLECT</u> OR NEGLECT UNDER THE PROVISIONS OF § 5-704 OR 30 § 5-705 OF THIS SUBTITLE SHALL REPORT THE SUSPECTED ABUSE OR NEGLECT OR 31 NEGLECT TO ANY LOCAL DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (2) OF 32 THIS SUBSECTION. 33 (2) A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE SHALL MAKE:

AN ORAL REPORT, BY TELEPHONE OR DIRECT





1 2	sexual abuse complain	(i) nts;	include a	appropriate techniques for expediting validation of	
3		(ii)	include i	investigation techniques designed to:	
4			1.	decrease the potential for physical harm to the child; and	
5 6	investigation and pros	secution o	2. of the case	decrease any trauma experienced by the child in the e; and	
7 8	the investigation or pr	(iii) osecution		an ongoing training program for personnel involved in al abuse cases.	
11	(g) (1) To the extent possible, an investigation under [this section] SUBSECTIONS (B) AND (C) OF THIS SECTION shall be completed within 10 days after receipt of the first notice of the suspected abuse or neglect by the local department or law enforcement agencies.				
	(2) which is not complet the first notice of the	ed within	30 days	UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION shall be completed within 60 days of receipt of r neglect.	
18 19	receives the first noti THAT IS ALLEGED	ce of susp TO HA	pected ab VE OCC	ocal department or law enforcement agency use OF A CHILD WHO LIVES IN THIS STATE URRED IN THIS STATE, the local department or law local State's Attorney the preliminary findings	
23 24	abuse OF A CHILD IN THIS STATE, the	WHO LI clocal de ted in the	VES IN 7 partment investiga	er completion of the investigation of suspected CHIS STATE THAT IS ALLEGED TO HAVE OCCURRED and the appropriate law enforcement agency, if ation, shall make a complete written report of	
	NEGLECT OF A CH	HILD WH	IO LIVES	CEIVING A REPORT OF SUSPECTED ABUSE OR S IN THIS STATE THAT IS ALLEGED TO HAVE ATE, THE LOCAL DEPARTMENT SHALL:	
	(1) THIS STATE THAT SUSPECTED ABUS	IS AUT	HORIZE	E REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF D TO RECEIVE AND INVESTIGATE REPORTS OF	
32 33	(2) AGENCY INVESTI			O THE EXTENT REQUESTED WITH THE OUT-OF-STATE PORT; AND	
34	(3)	IF DETI	ERMINE	D APPROPRIATE BY THE LOCAL DEPARTMENT:	
35 36	SAFE; AND	(I)	INTERV	VIEW THE CHILD TO ASSESS WHETHER THE CHILD IS	

17 criminal penalty.

- 1 (II)PROVIDE SERVICES TO THE CHILD AND THE CHILD'S FAMILY. 2 5-707. 3 (a) Subject to federal and State law, the Administration shall provide by 4 regulation adopted in accordance with Title 10, Subtitle 1 of the State Government 5 Article: procedures for protecting the confidentiality of reports and records 6 (1) 7 made in accordance with this subtitle; 8 (2) conditions under which information may be released; 9 (3) conditions for determining in cases whether abuse, neglect, or sexual 10 abuse is indicated, ruled out, or unsubstantiated; and 11 (4) procedures for the appeal processes provided in this subtitle. 12 5-708. 13 Any person who makes or participates in making a report of abuse or neglect 14 under § 5-704 [or], § 5-705, OR § 5-705.1 of this subtitle or participates in an 15 investigation or a resulting judicial proceeding shall have the immunity described 16 under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or
- 18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 19 effect October 1, 2003.