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By: **Delegates Menes and Hixson**

Introduced and read first time: February 6, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Reporting of Out-of-State Child Abuse and Neglect**

3 FOR the purpose of requiring the reporting of certain out-of-state child abuse and  
4 neglect under certain circumstances; specifying the procedures for the reporting  
5 of certain out-of-state child abuse and neglect; requiring a local department of  
6 social services to forward a report of certain out-of-state child abuse or neglect  
7 to a certain out-of-state agency under certain circumstances; specifying the  
8 applicability of certain provisions of law; establishing that certain reporting  
9 requirements apply only to certain persons in this State; providing certain  
10 immunity for certain persons under certain circumstances; establishing that  
11 certain investigation procedures apply only to certain in-state child abuse or  
12 neglect; requiring a local department that receives a report concerning certain  
13 out-of-state child abuse or neglect to take certain actions; defining a certain  
14 term; and generally relating to child abuse and neglect.

15 BY repealing and reenacting, with amendments,  
16 Article - Courts and Judicial Proceedings  
17 Section 5-620  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume)

20 BY repealing and reenacting, without amendments,  
21 Article - Family Law  
22 Section 5-701(b), (e), (o), (r), and (u) and 5-707(a)  
23 Annotated Code of Maryland  
24 (1999 Replacement Volume and 2002 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - Family Law  
27 Section 5-701(a), 5-703, 5-704, 5-705, 5-706, and 5-708  
28 Annotated Code of Maryland  
29 (1999 Replacement Volume and 2002 Supplement)

1 BY adding to  
2 Article - Family Law  
3 Section 5-705.1  
4 Annotated Code of Maryland  
5 (1999 Replacement Volume and 2002 Supplement)

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

8 **Article - Courts and Judicial Proceedings**

9 5-620.

10 Any person who in good faith makes or participates in making a report of abuse  
11 or neglect under § 5-704 [or], § 5-705, OR § 5-705.1 of the Family Law Article or  
12 participates in an investigation or a resulting judicial proceeding is immune from any  
13 civil liability or criminal penalty that would otherwise result from making or  
14 participating in a report of abuse or neglect or participating in an investigation or a  
15 resulting judicial proceeding.

16 **Article - Family Law**

17 5-701.

18 (a) [In] EXCEPT AS OTHERWISE PROVIDED IN § 5-705.1 OF THIS SUBTITLE, IN  
19 this subtitle the following words have the meanings indicated.

20 (b) "Abuse" means:

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

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

27 (e) "Child" means any individual under the age of 18 years.

28 (o) "Local department" means the department of social services that has  
29 jurisdiction in the county:

30 (1) where the allegedly abused or neglected child lives; or

31 (2) if different, where the abuse or neglect is alleged to have taken place.

32 (r) "Neglect" means the leaving of a child unattended or other failure to give  
33 proper care and attention to a child by any parent or other person who has permanent

1 or temporary care or custody or responsibility for supervision of the child under  
2 circumstances that indicate:

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

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

6 (u) "Report" means an allegation of abuse or neglect, made or received under  
7 this subtitle.

8 5-703.

9 (A) The provisions of this subtitle are in addition to and not in substitution for  
10 the provisions of Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article.

11 (B) EXCEPT AS OTHERWISE PROVIDED IN § 5-705.1 OF THIS SUBTITLE, THE  
12 PROVISIONS OF THIS SUBTITLE APPLY ONLY TO:

13 (1) SUSPECTED ABUSE OR NEGLECT THAT IS ALLEGED TO HAVE  
14 OCCURRED IN THIS STATE; AND

15 (2) SUSPECTED ABUSE OR NEGLECT OF A CHILD WHO LIVES IN THIS  
16 STATE, REGARDLESS OF WHERE THE SUSPECTED ABUSE OR NEGLECT IS ALLEGED  
17 TO HAVE OCCURRED.

18 5-704.

19 (a) Notwithstanding any other provision of law, including any law on  
20 privileged communications, each health practitioner, police officer, educator, or  
21 human service worker, acting in a professional capacity IN THIS STATE:

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

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

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

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

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

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

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

6                                   (ii)       a written report:

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

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

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

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

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

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

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

21                                  (3)       the whereabouts of the child;

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

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

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

27                                   (ii)       the identity of any individual responsible for the abuse or  
28 neglect.

29 5-705.

30       (a)       (1)       Except as provided in paragraphs (2) and (3) of this subsection,  
31 notwithstanding any other provision of law, including a law on privileged  
32 communications, a person IN THIS STATE other than a health practitioner, police  
33 officer, or educator or human service worker who has reason to believe that a child  
34 has been subjected to abuse or neglect shall:

1 (i) if the person has reason to believe the child has been subjected  
2 to abuse, notify the local department or the appropriate law enforcement agency; or

3 (ii) if the person has reason to believe the child has been subjected  
4 to neglect, notify the local department.

5 (2) A person is not required to provide notice under paragraph (1) of this  
6 subsection:

7 (i) in violation of the privilege described under § 9-108 of the  
8 Courts Article;

9 (ii) if the notice would disclose matter communicated in confidence  
10 by a client to the client's attorney or other information relating to the representation  
11 of the client; or

12 (iii) in violation of any constitutional right to assistance of counsel.

13 (3) A minister of the gospel, clergyman, or priest of an established church  
14 of any denomination is not required to provide notice under paragraph (1) of this  
15 subsection if the notice would disclose matter in relation to any communication  
16 described in § 9-111 of the Courts Article and:

17 (i) the communication was made to the minister, clergyman, or  
18 priest in a professional character in the course of discipline enjoined by the church to  
19 which the minister, clergyman, or priest belongs; and

20 (ii) the minister, clergyman, or priest is bound to maintain the  
21 confidentiality of that communication under canon law, church doctrine, or practice.

22 (b) (1) An agency to which a report of suspected abuse is made under  
23 subsection (a) of this section shall immediately notify the other agency.

24 (2) This subsection does not prohibit a local department and an  
25 appropriate law enforcement agency from agreeing to cooperative arrangements.

26 (c) A report made under subsection (a) of this section may be oral or in  
27 writing.

28 (d) (1) To the extent possible, a report made under subsection (a) of this  
29 section shall include the information required by § 5-704(c) of this subtitle.

30 (2) A report made under subsection (a) of this section shall be regarded  
31 as a report within the provisions of this subtitle, whether or not the report contains  
32 all of the information required by § 5-704(c) of this subtitle.

33 5-705.1.

34 (A) IN THIS SECTION, "LOCAL DEPARTMENT" MEANS A DEPARTMENT OF  
35 SOCIAL SERVICES FOR A COUNTY IN THIS STATE.

1 (B) THE FOLLOWING PROVISIONS OF THIS SUBTITLE SHALL APPLY TO THE  
2 REPORTING OF SUSPECTED ABUSE OR NEGLECT UNDER THIS SECTION:

3 (1) EXCEPT AS PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE  
4 DEFINITIONS SET FORTH IN § 5-701 OF THIS SUBTITLE;

5 (2) THE PROVISIONS RELATING TO THE CONFIDENTIALITY OF REPORTS  
6 SPECIFIED IN § 5-707(A)(1) AND (2) OF THIS SUBTITLE; AND

7 (3) THE PROVISIONS RELATING TO IMMUNITY FROM CIVIL LIABILITY OR  
8 CRIMINAL PENALTY SPECIFIED IN § 5-708 OF THIS SUBTITLE.

9 (C) (1) IF THE SUSPECTED ABUSE OR NEGLECT IS ALLEGED TO HAVE  
10 OCCURRED OUTSIDE OF THIS STATE AND THE VICTIM IS A CHILD WHO LIVES  
11 OUTSIDE OF THIS STATE, A PERSON WHO WOULD BE REQUIRED TO REPORT  
12 SUSPECTED ABUSE OR NEGLECT UNDER THE PROVISIONS OF § 5-704 OR § 5-705 OF  
13 THIS SUBTITLE SHALL REPORT THE SUSPECTED ABUSE OR NEGLECT TO ANY LOCAL  
14 DEPARTMENT IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

15 (2) A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE SHALL MAKE:

16 (I) AN ORAL REPORT, BY TELEPHONE OR DIRECT  
17 COMMUNICATION, AS SOON AS POSSIBLE; AND

18 (II) A WRITTEN REPORT NOT LATER THAN 48 HOURS AFTER THE  
19 CONTACT, EXAMINATION, ATTENTION, OR TREATMENT THAT CAUSED THE PERSON  
20 TO BELIEVE THAT THE CHILD HAD BEEN SUBJECTED TO ABUSE OR NEGLECT.

21 (3) A PERSON DESCRIBED IN § 5-705 OF THIS SUBTITLE SHALL MAKE AN  
22 ORAL OR A WRITTEN REPORT.

23 (4) TO THE EXTENT POSSIBLE, A REPORT UNDER THIS SUBSECTION  
24 SHALL INCLUDE THE INFORMATION SPECIFIED IN § 5-704(C) OF THIS SUBTITLE.

25 (D) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE OR  
26 NEGLECT UNDER THIS SECTION, THE LOCAL DEPARTMENT SHALL FORWARD THE  
27 REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF THIS STATE THAT IS  
28 AUTHORIZED TO RECEIVE AND INVESTIGATE REPORTS OF SUSPECTED ABUSE OR  
29 NEGLECT.

30 5-706.

31 (a) Promptly after receiving a report of suspected abuse or neglect OF A CHILD  
32 WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED IN THIS STATE:

33 (1) the local department or the appropriate law enforcement agency, or  
34 both, if jointly agreed on, shall make a thorough investigation of a report of suspected  
35 abuse to protect the health, safety, and welfare of the child or children; or

1 (2) the local department shall make a thorough investigation of a report  
2 of suspected neglect to protect the health, safety, and welfare of the child or children.

3 (b) Within 24 hours after receiving a report of suspected physical or sexual  
4 abuse OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED  
5 IN THIS STATE, and within 5 days after receiving a report of suspected neglect or  
6 suspected mental injury OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO  
7 HAVE OCCURRED IN THIS STATE, the local department or the appropriate law  
8 enforcement agency shall:

9 (1) see the child;

10 (2) attempt to have an on-site interview with the child's caretaker;

11 (3) decide on the safety of the child, wherever the child is, and of other  
12 children in the household; and

13 (4) decide on the safety of other children in the care or custody of the  
14 alleged abuser.

15 (c) The investigation UNDER SUBSECTION (B) OF THIS SECTION shall include:

16 (1) a determination of the nature, extent, and cause of the abuse or  
17 neglect, if any;

18 (2) if mental injury is suspected, an assessment by two of the following:

19 (i) a licensed physician, as defined in § 14-101 of the Health  
20 Occupations Article;

21 (ii) a licensed psychologist, as defined in § 18-101 of the Health  
22 Occupations Article; or

23 (iii) a licensed social worker, as defined in § 19-101 of the Health  
24 Occupations Article; and

25 (3) if the suspected abuse or neglect is verified:

26 (i) a determination of the identity of the person or persons  
27 responsible for the abuse or neglect;

28 (ii) a determination of the name, age, and condition of any other  
29 child in the household;

30 (iii) an evaluation of the parents and the home environment;

31 (iv) a determination of any other pertinent facts or matters; and

32 (v) a determination of any needed services.

1 (d) On request by the local department, the local State's Attorney shall assist  
2 in [the] AN investigation UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION.

3 (e) The local department, the appropriate law enforcement agencies, the  
4 State's Attorney within each county and Baltimore City, the department's office  
5 responsible for child care regulation, and the local health officer, shall enter into a  
6 written agreement that specifies standard operating procedures for the investigation  
7 UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION and prosecution of reported cases  
8 of suspected abuse.

9 (f) (1) The agencies responsible for investigating reported cases of suspected  
10 sexual abuse, including the local department, the appropriate law enforcement  
11 agencies, and the local State's Attorney, shall implement a joint investigation  
12 procedure for conducting joint investigations of sexual abuse UNDER SUBSECTIONS  
13 (B) AND (C) OF THIS SECTION.

14 (2) The joint investigation procedure shall:

15 (i) include appropriate techniques for expediting validation of  
16 sexual abuse complaints;

17 (ii) include investigation techniques designed to:

18 1. decrease the potential for physical harm to the child; and

19 2. decrease any trauma experienced by the child in the  
20 investigation and prosecution of the case; and

21 (iii) establish an ongoing training program for personnel involved in  
22 the investigation or prosecution of sexual abuse cases.

23 (g) (1) To the extent possible, an investigation under [this section]  
24 SUBSECTIONS (B) AND (C) OF THIS SECTION shall be completed within 10 days after  
25 receipt of the first notice of the suspected abuse or neglect by the local department or  
26 law enforcement agencies.

27 (2) An investigation UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION  
28 which is not completed within 30 days shall be completed within 60 days of receipt of  
29 the first notice of the suspected abuse or neglect.

30 (h) Within 10 days after the local department or law enforcement agency  
31 receives the first notice of suspected abuse OF A CHILD WHO LIVES IN THIS STATE  
32 THAT IS ALLEGED TO HAVE OCCURRED IN THIS STATE, the local department or law  
33 enforcement agency shall report to the local State's Attorney the preliminary findings  
34 of the investigation.

35 (i) Within 5 business days after completion of the investigation of suspected  
36 abuse OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED  
37 IN THIS STATE, the local department and the appropriate law enforcement agency, if

1 that agency participated in the investigation, shall make a complete written report of  
2 its findings to the local State's Attorney.

3 (J) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE OR  
4 NEGLECT OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE  
5 OCCURRED OUTSIDE OF THIS STATE, THE LOCAL DEPARTMENT SHALL:

6 (1) FORWARD THE REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF  
7 THIS STATE THAT IS AUTHORIZED TO RECEIVE AND INVESTIGATE REPORTS OF  
8 SUSPECTED ABUSE OR NEGLECT;

9 (2) COOPERATE TO THE EXTENT REQUESTED WITH THE OUT-OF-STATE  
10 AGENCY INVESTIGATING THE REPORT; AND

11 (3) IF DETERMINED APPROPRIATE BY THE LOCAL DEPARTMENT:

12 (I) INTERVIEW THE CHILD TO ASSESS WHETHER THE CHILD IS  
13 SAFE; AND

14 (II) PROVIDE SERVICES TO THE CHILD AND THE CHILD'S FAMILY.

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;

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 subtitle.

25 5-708.

26 Any person who makes or participates in making a report of abuse or neglect  
27 under § 5-704 [or], § 5-705, OR § 5-705.1 of this subtitle or participates in an  
28 investigation or a resulting judicial proceeding shall have the immunity described  
29 under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or  
30 criminal penalty.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
32 effect October 1, 2003.