
By: **Delegates Menes and Hixson**
Introduced and read first time: February 6, 2003
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2003

CHAPTER _____

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~~; establishing that a certain
6 person is not required to report certain out-of-state child abuse under certain
7 circumstances; requiring a local department of social services to forward a
8 report of certain out-of-state child abuse ~~or neglect~~ to a certain out-of-state
9 agency under certain circumstances; specifying the applicability of certain
10 provisions of law; establishing that certain reporting requirements apply only to
11 certain persons in this State; providing certain immunity for certain persons
12 under certain circumstances; establishing that certain investigation procedures
13 apply only to certain in-state child abuse or neglect; requiring a local
14 department that receives a report concerning certain ~~out-of-state~~ child abuse or
15 neglect to take certain actions; making certain clarifying and conforming
16 changes; defining a certain term; and generally relating to child abuse and
17 neglect.

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 5-620
21 Annotated Code of Maryland
22 (2002 Replacement Volume)

23 BY repealing and reenacting, without amendments,
24 Article - Family Law
25 Section 5-701(b), (e), (o), (r), and (u) and 5-707(a)

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2002 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Family Law
5 Section 5-701(a), 5-703, 5-704, 5-705, 5-706, and 5-708
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2002 Supplement)

8 BY adding to
9 Article - Family Law
10 Section 5-705.1
11 Annotated Code of Maryland
12 (1999 Replacement Volume and 2002 Supplement)

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

15 **Article - Courts and Judicial Proceedings**

16 5-620.

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

23 **Article - Family Law**

24 5-701.

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

27 (b) "Abuse" means:

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

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

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

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

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

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

5 (r) "Neglect" means the leaving of a child unattended or other failure to give
6 proper care and attention to a child by any parent or other person who has permanent
7 or temporary care or custody or responsibility for supervision of the child under
8 circumstances that indicate:

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

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

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

14 5-703.

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

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

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

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

24 5-704.

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

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

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

33 (2) if acting as a staff member of a hospital, public health agency, child
34 care institution, juvenile detention center, school, or similar institution, shall

1 immediately notify and give all information required by this section to the head of the
2 institution or the designee of the head.

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

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

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

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

12 (ii) a written report:

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

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

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

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

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

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

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

27 (3) the whereabouts of the child;

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

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

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

33 (ii) the identity of any individual responsible for the abuse or
34 neglect.

1 5-705.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 5-705.1.

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

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

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

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

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

15 (C) (1) ~~IF THE~~ EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,
16 ~~IF~~ SUSPECTED ABUSE ~~OR NEGLECT~~ IS ALLEGED TO HAVE OCCURRED OUTSIDE OF
17 THIS STATE AND THE VICTIM IS CURRENTLY A CHILD WHO LIVES OUTSIDE OF THIS
18 STATE, A PERSON WHO WOULD BE REQUIRED TO REPORT SUSPECTED ABUSE ~~OR~~
19 ~~NEGLECT~~ UNDER THE PROVISIONS OF § 5-704 OR § 5-705 OF THIS SUBTITLE SHALL
20 REPORT THE SUSPECTED ABUSE ~~OR NEGLECT~~ TO ANY LOCAL DEPARTMENT IN
21 ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

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

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

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

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

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

32 (D) IF A PERSON DESCRIBED IN § 5-704 OF THIS SUBTITLE DISCOVERS ABUSE
33 AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION DURING THE COURSE OF
34 THERAPY, AND THE PERSON CAN DOCUMENT IN THE MEDICAL RECORD THAT A
35 REPORT PREVIOUSLY HAS BEEN MADE TO THE APPROPRIATE AUTHORITY IN THE
36 STATE IN WHICH THE CHILD LIVES, THE PERSON IS NOT REQUIRED TO REPORT THE
37 ABUSE.

1 ~~(D)~~ (E) PROMPTLY AFTER RECEIVING A REPORT OF SUSPECTED ABUSE ~~OR~~
2 ~~NEGLECT~~ UNDER THIS SECTION, THE LOCAL DEPARTMENT SHALL FORWARD THE
3 REPORT TO THE APPROPRIATE AGENCY OUTSIDE OF THIS STATE THAT IS
4 AUTHORIZED TO RECEIVE AND INVESTIGATE REPORTS OF SUSPECTED ABUSE ~~OR~~
5 ~~NEGLECT~~.

6 5-706.

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

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

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

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

20 (1) see the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (v) a determination of any needed services.

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

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

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

22 (2) The joint investigation procedure shall:

23 (i) include appropriate techniques for expediting validation of
24 sexual abuse complaints;

25 (ii) include investigation techniques designed to:

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

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

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

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

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

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

9 (i) Within 5 business days after completion of the investigation of suspected
10 abuse OF A CHILD WHO LIVES IN THIS STATE THAT IS ALLEGED TO HAVE OCCURRED
11 IN THIS STATE, the local department and the appropriate law enforcement agency, if
12 that agency participated in the investigation, shall make a complete written report of
13 its findings to the local State's Attorney.

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

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

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

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

23 (I) INTERVIEW THE CHILD TO ASSESS WHETHER THE CHILD IS
24 SAFE; AND

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

26 5-707.

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

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

32 (2) conditions under which information may be released;

33 (3) conditions for determining in cases whether abuse, neglect, or sexual
34 abuse is indicated, ruled out, or unsubstantiated; and

35 (4) procedures for the appeal processes provided in this subtitle.

1 5-708.

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

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