

HOUSE BILL 823

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2003 Regular Session
3lr2416
CF SB 412

By: **Delegates McIntosh, Brown, Gutierrez, Hixson, Hutchins, Jones, Lee,
and Menes**

Introduced and read first time: February 7, 2003

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Abuse and Neglect - Reporting by Members of the Clergy**

3 FOR the purpose of limiting a provision that exempts certain members of the clergy
4 from the child abuse and neglect reporting requirements under certain
5 circumstances; providing for the construction of a certain provision of this Act;
6 and generally relating to child abuse and neglect.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-705
10 Annotated Code of Maryland
11 (1999 Replacement Volume and 2002 Supplement)

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

14 **Article - Family Law**

15 5-705.

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

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

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

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

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

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

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

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

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

14 (ii)] COMMUNICATED BY THE PERPETRATOR IN THE COURSE OF A
15 CONFESSION, AND the minister, clergyman, or priest is SPECIFICALLY bound to
16 maintain the confidentiality of that communication under canon law[,] OR church
17 doctrine[, or practice].

18 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE
19 CONSTRUED TO MODIFY OR LIMIT THE DUTY TO REPORT SUSPECTED CHILD ABUSE
20 OR NEGLECT:

21 1. WHENEVER A MINISTER, CLERGYMAN, OR PRIEST
22 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH ACTS IN A CAPACITY THAT
23 WOULD OTHERWISE REQUIRE THE MINISTER, CLERGYMAN, OR PRIEST TO REPORT
24 SUSPECTED ABUSE OR NEGLECT UNDER THIS SUBTITLE; OR

25 2. IF INFORMATION REGARDING THE SUSPECTED ABUSE OR
26 NEGLECT:

27 A. WAS OBTAINED FROM ANY SOURCE OTHER THAN BY THE
28 PERPETRATOR IN THE COURSE OF A CONFESSION, INCLUDING PERSONAL
29 OBSERVATION OF A VICTIM, EVEN THOUGH INFORMATION ALSO MAY HAVE BEEN
30 OBTAINED FROM THE PERPETRATOR IN THE COURSE OF A CONFESSION;

31 B. WAS COMMUNICATED BY THE PERPETRATOR IN THE
32 COURSE OF A CONFESSION IN THE PRESENCE OF A THIRD PARTY; OR

33 C. WAS COMMUNICATED BY THE PERPETRATOR IN THE
34 COURSE OF A CONFESSION AND DISCLOSED BY A MINISTER, PRIEST, OR CLERGYMAN
35 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH TO A THIRD PARTY.

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

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

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

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

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

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