

HOUSE BILL 1098

Unofficial Copy
D4

2004 Regular Session
4r2831
CF SB 237

By: **Delegates Menes, Goldwater, Hubbard, Jones, and McComas**
Introduced and read first time: February 13, 2004
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 altering 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 2003 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 in this State other than a health practitioner, police officer,
19 or educator or human service worker who has reason to believe that a child has been
20 subjected to 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] COMMUNICATED TO THE MINISTER,
11 CLERGYMAN, OR PRIEST IN THE COURSE OF A CONFIDENTIAL PENITENTIAL
12 COMMUNICATION AND:

13 1. THE MINISTER, CLERGYMAN, OR PRIEST IS SPECIFICALLY
14 BOUND TO MAINTAIN THE CONFIDENTIALITY OF THAT COMMUNICATION UNDER
15 CANON LAW OR CHURCH DOCTRINE; AND

16 [(i)] 2. the communication was made to the minister, clergyman,
17 or priest in a professional character in the course of discipline enjoined by the church
18 to which the minister, clergyman, or priest belongs[; and

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

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

24 1. WHENEVER A MINISTER, CLERGYMAN, OR PRIEST OF AN
25 ESTABLISHED CHURCH OF ANY DENOMINATION FUNCTIONS IN A ROLE THAT WOULD
26 OTHERWISE REQUIRE THE MINISTER, CLERGYMAN, OR PRIEST TO REPORT
27 SUSPECTED ABUSE OR NEGLECT UNDER THIS SUBTITLE; OR

28 2. IF INFORMATION REGARDING THE SUSPECTED ABUSE OR
29 NEGLECT:

30 A. WAS OBTAINED IN ANY MANNER OTHER THAN AS
31 DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, INCLUDING PERSONAL
32 OBSERVATION OF A VICTIM, EVEN THOUGH INFORMATION ALSO MAY HAVE BEEN
33 OBTAINED AS DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH;

34 B. WAS COMMUNICATED TO THE MINISTER, CLERGYMAN, OR
35 PRIEST IN THE PRESENCE OF A THIRD PERSON; OR

36 C. WAS DISCLOSED BY THE MINISTER, CLERGYMAN, OR
37 PRIEST TO A THIRD PERSON.

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

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

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

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

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2004.