
By: **The Speaker (By Request - Administration) and Delegates Arnick, Aumann, Barkley, Bartlett, Bates, Bohanan, Boteler, Boutin, Cadden, Cluster, Costa, Cryor, DeBoy, Donoghue, Dumais, Eckardt, Edwards, Elmore, Feldman, Frank, Fulton, Gilleland, Impallaria, Kach, King, Krebs, Leopold, Levy, McComas, McConkey, McDonough, McKee, Miller, Minnick, Moe, Murray, Nathan-Pulliam, Parrott, Rudolph, Shank, Shewell, Simmons, Stocksdale, Stull, Trueschler, Walkup, and Weir**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 3, 2005

CHAPTER _____

1 AN ACT concerning

2 **Department of Human Resources - Disclosure of Information - Hospitals**
3 **and Birthing Centers**

4 FOR the purpose of allowing disclosure of certain information concerning child abuse
5 and neglect to ~~medical or human services personnel~~ a licensed practitioner of a
6 hospital or birthing center under certain circumstances; requiring the
7 Department of Human Resources to submit certain reports to the General
8 Assembly on or before certain dates; and generally relating to the disclosure of
9 certain information concerning child abuse and neglect.

10 BY repealing and reenacting, with amendments,
11 Article 88A - Department of Human Resources
12 Section 6
13 Annotated Code of Maryland
14 (2003 Replacement Volume and 2004 Supplement)

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

1 **Article 88A - Department of Human Resources**

2 6.

3 (a) Except in accordance with a court order or to an authorized officer or
4 employee of the State, another state or local government, or the United States, or a
5 fiduciary institution having a right thereto in an official capacity, and as necessary to
6 discharge responsibilities to administer public assistance, medical assistance, or
7 social services programs, it shall be unlawful for any person or persons to divulge or
8 make known in any manner any information concerning any applicant for or recipient
9 of social services, child welfare services, cash assistance, food stamps, or medical
10 assistance, directly or indirectly derived from the records, papers, files, investigations
11 or communications of the State, county or city, or subdivisions or agencies thereof, or
12 acquired in the course of the performance of official duties.

13 (b) Except as otherwise provided in Title 5, Subtitle 7 of the Family Law
14 Article, § 6A of this subtitle, and this section, all records and reports concerning child
15 abuse or neglect are confidential, and their unauthorized disclosure is a criminal
16 offense subject to the penalty set out in subsection (e) of this section. Reports or
17 records concerning child abuse or neglect:

18 (1) Shall be disclosed:

19 (i) Under a court order; or

20 (ii) Under an order of an administrative law judge, if the request for
21 disclosure concerns a case pending before the Office of Administrative Hearings and
22 provisions are made to comply with other State or federal confidentiality laws and to
23 protect the identity of the reporter or other person whose life or safety is likely to be
24 endangered by disclosure; and

25 (2) May be disclosed on request:

26 (i) To personnel of local or State departments of social services, law
27 enforcement personnel, and members of multidisciplinary case consultation teams,
28 who are investigating a report of known or suspected child abuse or neglect or who
29 are providing services to a child or family that is the subject of the report;

30 (ii) To local or State officials responsible for the administration of
31 child protective services or child care, foster care, and adoption licensing, approval, or
32 regulations as necessary to carry out their official functions;

33 (iii) To the State Council on Child Abuse and Neglect, the State
34 Citizens Review Board for Children, or their designees, or a child fatality review team
35 as necessary to carry out their official functions;

36 (iv) To a person who is the alleged child abuser or the person who is
37 suspected of child neglect if that person is responsible for the child's welfare and
38 provisions are made for the protection of the identity of the reporter or any other
39 person whose life or safety is likely to be endangered by disclosing the information;

1 (v) To a licensed practitioner who, or an agency, institution, or
2 program which, is providing treatment or care to a child who is the subject of a report
3 of child abuse or neglect for a purpose relevant to the provision of the treatment or
4 care;

5 (vi) To a parent or other person who has permanent or temporary
6 care and custody of a child, if provisions are made for the protection of the identity of
7 the reporter or any other person whose life or safety is likely to be endangered by
8 disclosing the information;

9 (vii) To the appropriate public school superintendent for the purpose
10 of carrying out appropriate personnel or administrative actions following a report of
11 suspected child abuse involving a student committed by:

12 1. A public school employee in that school system;

13 2. An independent contractor who supervises or works
14 directly with students in that school system; or

15 3. An employee of an independent contractor, including a bus
16 driver or bus assistant, who supervises or works directly with students in that school
17 system;

18 (viii) To the director of a licensed child care facility or licensed child
19 placement agency for the purpose of carrying out appropriate personnel actions
20 following a report of suspected child neglect or abuse alleged to have been committed
21 by an employee of the facility or agency and involving a child who is currently or who
22 was previously under that facility's or agency's care; [or]

23 (ix) To the Office of the Independent Juvenile Justice Monitor
24 established under Article 49D of the Code[.]; OR

25 (X) ~~TO MEDICAL OR HUMAN SERVICES PERSONNEL~~ SUBJECT TO
26 THE PROVISIONS OF SUBSECTION (C) OF THIS SECTION, TO A LICENSED
27 PRACTITIONER OF A HOSPITAL OR BIRTHING CENTER FOR THE PURPOSE OF MAKING
28 DISCHARGE DECISIONS CONCERNING A CHILD, WHEN THE MEDICAL OR HUMAN
29 SERVICES PERSONNEL HAVE REASONABLE ARTICULABLE CONCERNS ABOUT THE
30 SAFETY OF A CHILD AFTER DISCHARGE PRACTITIONER SUSPECTS THAT THE CHILD
31 MAY BE IN DANGER AFTER DISCHARGE BASED ON THE PRACTITIONER'S
32 OBSERVATION OF THE BEHAVIOR OF THE CHILD'S PARENTS OR IMMEDIATE FAMILY
33 MEMBERS.

34 (C) ONLY THE FOLLOWING INFORMATION CONCERNING CHILD ABUSE AND
35 NEGLECT MAY BE DISCLOSED TO A PRACTITIONER OF A HOSPITAL OR BIRTHING
36 CENTER UNDER SUBSECTION (B)(2)(X) OF THIS SECTION:

37 (1) WHETHER THERE IS A PRIOR FINDING OF INDICATED CHILD ABUSE
38 OR NEGLECT BY EITHER PARENT; AND

1 (2) WHETHER THERE IS AN OPEN INVESTIGATION OF CHILD ABUSE OR
 2 NEGLECT PENDING AGAINST EITHER PARENT.

3 (⇌) (D) Nothing in this section shall be construed to prohibit:

4 (1) The publication, for administrative or research purposes, of statistics
 5 or other data so classified as to prevent the identification of particular persons or
 6 cases;

7 (2) The Department of Human Resources from obtaining an individual's
 8 financial records from a fiduciary institution in the course of verifying the
 9 individual's eligibility for public assistance; or

10 (3) Disclosures as permitted by § 1-303 of the Financial Institutions
 11 Article.

12 (⇌) (E) The Department of Human Resources shall issue regulations
 13 governing access to and use of confidential information which is in the possession of
 14 the Department or local departments of social services.

15 (⇌) (F) Any offense against the provisions of this section shall be a
 16 misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment
 17 for not exceeding 90 days, or both, in the discretion of the court.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of
 19 Human Resources shall report to the General Assembly on or before October 1, 2005,
 20 in accordance with § 2-1246 of the State Government Article, on the feasibility of
 21 offering family counseling services to individuals who have had a finding of indicated
 22 child abuse or neglect. The report shall contain information regarding a family
 23 counseling services program that provides family support services, family planning
 24 services, abstinence education, and adoption services for at-risk individuals and their
 25 children. The report shall include information on the use of community nurses or
 26 substance abuse counselors to provide family counseling services and on the
 27 feasibility of offering family counseling services in local departments of social
 28 services. In considering alternatives for providing family counseling services, the
 29 Department shall consider partnerships with State agencies and local health
 30 departments, similar to the partnership that currently exists in Baltimore City.

31 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of
 32 Human Resources shall report to the General Assembly on or before December 31,
 33 2007, in accordance with § 2-1246 of the State Government Article, on the use and
 34 effectiveness of the disclosure of information concerning child abuse or neglect to
 35 licensed practitioners of hospitals or birthing centers under the provisions of this Act.

36 ~~SECTION 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
 37 effect July 1, 2005.

