

By: **Senators Kelley, Britt, Colburn, Conway, Della, Forehand, Giannetti, Green, Hollinger, Hooper, Jacobs, Jimeno, Klausmeier, Lawlah, Middleton, and Teitelbaum**

Introduced and read first time: January 18, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

Child Abuse and Neglect - Reporting by Commercial Photographic Processors and Forensic Computer Analysts

4 FOR the purpose of specifically mandating certain reporting of child abuse and
5 neglect by commercial photographic processors and forensic computer analysts;
6 and generally relating to child abuse and neglect.

7 BY repealing and reenacting, with amendments,
8 Article - Family Law
9 Section 5-704 and 5-705
10 Annotated Code of Maryland
11 (2004 Replacement Volume and 2005 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 5-704.

16 (a) Notwithstanding any other provision of law, including any law on
17 privileged communications, each health practitioner, police officer, educator, [or],
18 human service worker, COMMERCIAL PHOTOGRAPHIC PROCESSOR, OR FORENSIC
19 COMPUTER ANALYST, acting in a professional capacity in this State:

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

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

25 (2) if acting as a staff member of a hospital, public health agency, child
26 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 officer,
5 [or] educator [or], human service worker, COMMERCIAL PHOTOGRAPHIC
6 PROCESSOR, OR FORENSIC COMPUTER ANALYST who has reason to believe that a
7 child has been subjected to abuse or neglect shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2006.