
By: **Senator Grosfeld**

Introduced and read first time: February 3, 2006

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child Abuse and Sexual Abuse Investigations - Use of**
3 **Videotape**

4 FOR the purpose of requiring investigators of certain child abuse and neglect
5 complaints to interview certain children, if appropriate; requiring certain
6 agencies to include certain requirements in their standard operating procedures
7 and joint investigation procedures regarding certain child abuse and sexual
8 abuse complaints; requiring investigators of certain child abuse and sexual
9 abuse complaints to use videotape to record interviews of certain children
10 subject to the availability of funds; providing that failure to videotape an
11 interview of a certain child in certain investigations may not result in an
12 adverse inference in an administrative or judicial proceeding; providing that a
13 court order is not required to videotape certain interviews of certain children;
14 prohibiting the publication of certain videotapes and audiotapes; requiring an
15 ongoing training program for certain personnel involved in certain
16 investigations; making a stylistic change; and generally relating to videotaped
17 interviews of certain children in child abuse and sexual abuse investigations.

18 BY repealing and reenacting, with amendments,
19 Article - Family Law
20 Section 5-706
21 Annotated Code of Maryland
22 (2004 Replacement Volume and 2005 Supplement)

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

25 **Article - Family Law**

26 5-706.

27 (a) Promptly after receiving a report of suspected abuse or neglect of a child
28 who lives in this State that is alleged to have occurred in this State:

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

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

6 (b) Within 24 hours after receiving a report of suspected physical or sexual
7 abuse of a child who lives in this State that is alleged to have occurred in this State,
8 and within 5 days after receiving a report of suspected neglect or suspected mental
9 injury of a child who lives in this State that is alleged to have occurred in this State,
10 the local department or the appropriate law enforcement agency shall:

11 (1) see the child AND, IF APPROPRIATE, INTERVIEW THE CHILD;

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

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

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

17 (c) The investigation under subsection (b) of this section shall include:

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

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

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

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

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

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

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

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

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

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

1 (v) a determination of any needed services.

2 (d) On request by the local department, the local State's Attorney shall assist
3 in an investigation under subsections (b) and (c) of this section.

4 (e) (1) The local department, the appropriate law enforcement agencies, the
5 State's Attorney within each county and Baltimore City, the local department's office
6 responsible for child care regulation, and the local health officer shall enter into a
7 written agreement that specifies standard operating procedures for the investigation
8 under subsections (b) and (c) of this section and prosecution of reported cases of
9 suspected abuse.

10 (2) THE STANDARD OPERATING PROCEDURES SHALL INCLUDE A
11 REQUIREMENT THAT ANY INTERVIEW WITH THE CHILD BE VIDEOTAPED.

12 (f) (1) The agencies responsible for investigating reported cases of suspected
13 sexual abuse, including the local department, the appropriate law enforcement
14 agencies, and the local State's Attorney, shall implement a joint investigation
15 procedure for conducting joint investigations of sexual abuse under subsections (b)
16 and (c) of this section.

17 (2) The joint investigation procedure shall:

18 (i) include appropriate techniques for expediting validation of
19 sexual abuse complaints;

20 (ii) include investigation techniques designed to:

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

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

24 (III) INCLUDE A REQUIREMENT THAT ANY INTERVIEW WITH THE
25 CHILD BE VIDEOTAPED; AND

26 [(iii)] (G) THE STANDARD OPERATING PROCEDURES UNDER
27 SUBSECTION (E) OF THIS SECTION AND THE JOINT INVESTIGATION PROCEDURE
28 UNDER SUBSECTION (F) OF THIS SECTION SHALL establish an ongoing training
29 program for personnel involved in the investigation or prosecution of [sexual] abuse
30 cases.

31 (H) (1) THE VIDEOTAPING REQUIREMENT ESTABLISHED UNDER THIS
32 SECTION SHALL APPLY SUBJECT TO THE AVAILABILITY OF FUNDS TO PURCHASE THE
33 NECESSARY EQUIPMENT REQUIRED TO CONDUCT VIDEOTAPED INTERVIEWS.

34 (2) THE FAILURE TO VIDEOTAPE AN INTERVIEW OF A CHILD IN AN
35 INVESTIGATION FOR ABUSE OR SEXUAL ABUSE MAY NOT RESULT IN AN ADVERSE
36 INFERENCE IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING.

1 (3) NOTWITHSTANDING ANY PROVISION OF TITLE 10, SUBTITLE 4 OF
2 THE COURTS ARTICLE, A COURT ORDER IS NOT REQUIRED TO VIDEOTAPE OR
3 AUDIOTAPE AN INTERVIEW OF AN ALLEGED CHILD VICTIM.

4 (4) A VIDEOTAPE OR AUDIOTAPE OF AN INTERVIEW MADE UNDER THIS
5 SECTION MAY NOT BE PUBLISHED, EXCEPT FOR THE PURPOSES OF A RELATED
6 JUDICIAL OR ADMINISTRATIVE PROCEEDING, UNLESS AUTHORIZED BY COURT
7 ORDER AFTER GIVING INTERESTED PERSONS NOTICE AND AN OPPORTUNITY TO
8 RESPOND IN ACCORDANCE WITH THE MARYLAND RULES.

9 [(g)] (I) (1) To the extent possible, an investigation under subsections (b)
10 and (c) of this section shall be completed within 10 days after receipt of the first notice
11 of the suspected abuse or neglect by the local department or law enforcement
12 agencies.

13 (2) An investigation under subsections (b) and (c) of this section [which]
14 THAT is not completed within 30 days shall be completed within 60 days of receipt of
15 the first notice of the suspected abuse or neglect.

16 [(h)] (J) Within 10 days after the local department or law enforcement
17 agency receives the first notice of suspected abuse of a child who lives in this State
18 that is alleged to have occurred in this State, the local department or law enforcement
19 agency shall report to the local State's Attorney the preliminary findings of the
20 investigation.

21 [(i)] (K) Within 5 business days after completion of the investigation of
22 suspected abuse of a child who lives in this State that is alleged to have occurred in
23 this State, the local department and the appropriate law enforcement agency, if that
24 agency participated in the investigation, shall make a complete written report of its
25 findings to the local State's Attorney.

26 [(j)] (L) Promptly after receiving a report of suspected abuse or neglect of a
27 child who lives in this State that is alleged to have occurred outside of this State, the
28 local department shall:

29 (1) forward the report to the appropriate agency outside of this State
30 that is authorized to receive and investigate reports of suspected abuse or neglect;

31 (2) cooperate to the extent requested with the out-of-state agency
32 investigating the report; and

33 (3) if determined appropriate by the local department:

34 (i) interview the child to assess whether the child is safe; and

35 (ii) provide services to the child and the child's family.

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