

SENATE BILL 149

D4

8lr0104

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Resources)**

Introduced and read first time: January 18, 2008

Rules suspended

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Child Abuse and Neglect – Definition of Abuse – Clarification**

3 FOR the purpose of altering the definition of “abuse” to clarify that the physical or
4 mental injury of a child by certain persons under certain circumstances
5 constitutes abuse regardless of whether the injury was caused during corporal
6 punishment; and generally relating to child abuse and neglect.

7 BY repealing and reenacting, with amendments,

8 Article – Family Law

9 Section 5–701

10 Annotated Code of Maryland

11 (2006 Replacement Volume and 2007 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 5–701.

16 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle
17 the following words have the meanings indicated.

18 (b) “Abuse” means:

19 (1) the physical or mental injury of a child by any parent or other
20 person who has permanent or temporary care or custody or responsibility for
21 supervision of a child, or by any household or family member, under circumstances
22 that indicate that the child’s health or welfare is harmed or at substantial risk of being

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 harmed, **REGARDLESS OF WHETHER THE INJURY WAS CAUSED DURING**
2 **CORPORAL PUNISHMENT**; or

3 (2) sexual abuse of a child, whether physical injuries are sustained or
4 not.

5 (c) "Administration" means the Social Services Administration of the
6 Department.

7 (d) (1) Except as provided in paragraph (2) of this subsection, "central
8 registry" means any component of the Department's confidential computerized
9 database that contains information regarding child abuse and neglect investigations.

10 (2) "Central registry" does not include a local department case file.

11 (e) "Child" means any individual under the age of 18 years.

12 (f) Repealed.

13 (g) (1) "Educator or human service worker" means any professional
14 employee of any correctional, public, parochial or private educational, health, juvenile
15 service, social or social service agency, institution, or licensed facility.

16 (2) "Educator or human service worker" includes:

17 (i) any teacher;

18 (ii) any counselor;

19 (iii) any social worker;

20 (iv) any caseworker; and

21 (v) any probation or parole officer.

22 (h) "Family member" means a relative by blood, adoption, or marriage of a
23 child.

24 (i) (1) "Health practitioner" includes any person who is authorized to
25 practice healing under the Health Occupations Article or § 13-516 of the Education
26 Article.

27 (2) "Health practitioner" does not include an emergency medical
28 dispatcher.

29 (j) "Household" means the location:

- 1 (1) in which the child resides;
- 2 (2) where the abuse or neglect is alleged to have taken place; or
- 3 (3) where the person suspected of abuse or neglect resides.

4 (k) "Household member" means a person who lives with, or is a regular
5 presence in, a home of a child at the time of the alleged abuse or neglect.

6 (l) "Identifying information" means the name of:

- 7 (1) the child who is alleged to have been abused or neglected;
- 8 (2) a member of the household of the child;
- 9 (3) a parent or legal guardian of the child; or
- 10 (4) an individual suspected of being responsible for abuse or neglect of
11 the child.

12 (m) "Indicated" means a finding that there is credible evidence, which has not
13 been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur.

14 (n) (1) "Law enforcement agency" means a State, county, or municipal
15 police department, bureau, or agency.

16 (2) "Law enforcement agency" includes:

- 17 (i) a State, county, or municipal police department or agency;
- 18 (ii) a sheriff's office;
- 19 (iii) a State's Attorney's office; and
- 20 (iv) the Attorney General's office.

21 (o) Except as provided in §§ 5-705.1 and 5-714 of this subtitle, "local
22 department" means the local department that has jurisdiction in the county:

- 23 (1) where the allegedly abused or neglected child lives; or
- 24 (2) if different, where the abuse or neglect is alleged to have taken
25 place.

26 (p) "Local department case file" means that component of the Department's
27 confidential computerized database that contains information regarding child abuse
28 and neglect investigations to which access is limited to the local department staff
29 responsible for the investigation.

1 (q) “Local State’s Attorney” means the State’s Attorney for the county:

2 (1) where the allegedly abused or neglected child lives; or

3 (2) if different, where the abuse or neglect is alleged to have taken
4 place.

5 (r) “Mental injury” means the observable, identifiable, and substantial
6 impairment of a child’s mental or psychological ability to function.

7 (s) “Neglect” means the leaving of a child unattended or other failure to give
8 proper care and attention to a child by any parent or other person who has permanent
9 or temporary care or custody or responsibility for supervision of the child under
10 circumstances that indicate:

11 (1) that the child’s health or welfare is harmed or placed at
12 substantial risk of harm; or

13 (2) mental injury to the child or a substantial risk of mental injury.

14 (t) “Police officer” means any State or local officer who is authorized to make
15 arrests as part of the officer’s official duty.

16 (u) “Record” means the original or any copy of any documentary material, in
17 any form, including a report of suspected child abuse or neglect, that is made by,
18 received by, or received from the State, a county, or a municipal corporation in the
19 State, or any subdivision or agency concerning a case of alleged child abuse or neglect.

20 (v) “Report” means an allegation of abuse or neglect, made or received under
21 this subtitle.

22 (w) “Ruled out” means a finding that abuse, neglect, or sexual abuse did not
23 occur.

24 (x) (1) “Sexual abuse” means any act that involves sexual molestation or
25 exploitation of a child by a parent or other person who has permanent or temporary
26 care or custody or responsibility for supervision of a child, or by any household or
27 family member.

28 (2) “Sexual abuse” includes:

29 (i) incest, rape, or sexual offense in any degree;

30 (ii) sodomy; and

31 (iii) unnatural or perverted sexual practices.

1 (y) “Unsubstantiated” means a finding that there is an insufficient amount of
2 evidence to support a finding of indicated or ruled out.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2008.