

SENATE BILL 59

D4, O4

9lr0070

(PRE-FILED)

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Resources) and Senators Brochin, Forehand, Haines, Jacobs, Mooney, Muse, Raskin, Simonaire, and Stone**

Requested: October 6, 2008

Introduced and read first time: January 14, 2009

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 17, 2009

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – Disclosure of Information**

3 FOR the purpose of requiring a director of a local department of social services or the
4 Secretary of Human Resources to disclose certain information concerning child
5 abuse and neglect under certain circumstances; modifying the circumstances
6 under which certain information concerning child abuse and neglect is required
7 to be disclosed; repealing a requirement that the Secretary consult with a law
8 enforcement agency before disclosing certain information concerning child abuse
9 and neglect; and generally relating to the disclosure of information concerning
10 child abuse and neglect.

11 BY repealing and reenacting, with amendments,
12 Article – Human Services
13 Section 1–203
14 Annotated Code of Maryland
15 (2007 Volume and 2008 Supplement)

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

18 **Article – Human Services**

19 1–203.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(a) (1) In this section the following words have the meanings indicated.

(2) “Local department” means the department of social services that has jurisdiction in the county:

(i) where the allegedly abused or neglected child lives; or

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

(3) “Local director” means the director of the local department.

(4) “Medical report” means a psychological, psychiatric, therapeutic, clinical, or medical report or evaluation related to the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglecter.

(5) “Secretary” means the Secretary of Human Resources.

(b) (1) Notwithstanding any other provision of law, the local director or the Secretary [may] **SHALL, ON REQUEST**, disclose information concerning child abuse or neglect in accordance with subsection (c) of this section if:

(i) the local director or the Secretary determines that the disclosure is not contrary to the best interests of the child, the child’s siblings, or other children in the household, family, or care of the alleged abuser or neglecter;

(ii) [the alleged abuser or neglecter has been charged with a crime related to a report of child abuse or neglect; and

(iii)] the child named in a report of abuse or neglect has [died or] suffered a [serious physical injury, as defined in § 3–201 of the Criminal Law Article] **FATALITY OR NEAR FATALITY; AND**

(III) THE STATE’S ATTORNEY’S OFFICE, ON CONSULTATION, HAS ADVISED THE LOCAL DIRECTOR OR SECRETARY THAT RELEASE OF THE INFORMATION WOULD NOT JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION OR PROSECUTION.

(2) In determining whether disclosure is contrary to the best interests of the child, the child’s siblings, or other children in the household, family, or care of the alleged abuser or neglecter under paragraph (1)(i) of this subsection, the local director or the Secretary shall consider the effect that disclosure may have on the provision of services to the child, the child’s household or family members, and any children in the care of the alleged abuser or neglecter.

1 (c) Before disclosing the information:

2 (1) the local director or the Secretary shall consult the [primary law
3 enforcement agency and the] State's Attorney's office [concerning whether disclosure
4 of the information would jeopardize or prejudice any related investigation or
5 prosecution]; and

6 (2) the local director and the Secretary shall consult each other.

7 (d) The local director or the Secretary [may] **SHALL** disclose:

8 (1) the name of the allegedly abused or neglected child;

9 (2) the date of the report of the alleged child abuse or neglect and of
10 any prior or subsequent reports;

11 (3) the findings made by the local department at the conclusion of [its]
12 **THE CURRENT** investigation and the disposition made by the local department based
13 on its findings;

14 (4) any services provided to the alleged abuser or neglecter, the
15 allegedly abused or neglected child, and the household or family members;

16 (5) the number of referrals for professional services for the alleged
17 abuser or neglecter, the allegedly abused or neglected child, and the household or
18 family members;

19 (6) any prior adjudication as a child in need of assistance of the
20 allegedly abused or neglected child, a sibling of the child, or another child in the
21 household, family, or care of the alleged abuser or neglecter; and

22 (7) any information concerning the circumstances of the alleged child
23 abuse or neglect and the investigation of the circumstances, if the local director or the
24 Secretary determines that the disclosure is consistent with the public interest.

25 (e) (1) The local director or the Secretary may not:

26 (i) disclose the identity of or provide an identifying description
27 of the person who made the report;

28 (ii) disclose the name of a sibling of the allegedly abused or
29 neglected child, a parent of the allegedly abused or neglected child, an individual
30 legally responsible for the child, or another household or family member, other than
31 the alleged abuser or neglecter;

32 (iii) except as provided in paragraph (2) of this subsection,
33 disclose a medical report; or

1 (iv) except for the information described in subsection (d) of this
2 section, disclose the file relating to the allegedly abused or neglected child.

3 (2) Notwithstanding Title 4, Subtitle 3 of the Health – General Article,
4 the local director or the Secretary may disclose a medical report related to the cause of
5 the child's injury or death as a result of the alleged abuse or neglect.

6 (f) In consultation with the local directors, the Secretary shall develop a
7 form for disclosure of the information described in subsection (d) of this section.

8 (g) This section does not grant a right to any person to receive the
9 information described in subsection (d) of this section.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.