

SENATE BILL 63

D4, E1, D3

2lr0910
CF HB 1067

By: **Senators Kelley, Astle, Colburn, Conway, DeGrange, Forehand, Klausmeier, Manno, Mathias, McFadden, Middleton, Pinsky, Pugh, Robey, Stone, ~~and Young~~ Young, Brochin, Jacobs, Ramirez, Raskin, Shank, and Jones-Rodwell**

Introduced and read first time: January 16, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 31, 2012

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – ~~Failure to Provide Notice or Report – Civil~~**
3 **~~Liability and Criminal Penalty~~ Notice and Reporting Requirements,**
4 **Disclosure, and Task Force**

5 FOR the purpose of expanding immunity from civil liability or criminal penalty to a
6 person who provides or participates in providing notice of child abuse or neglect
7 to the appropriate authorities; ~~adding a medical examiner and a parole or~~
8 ~~probation agent to the list of individuals who are specifically required to notify~~
9 ~~the appropriate authorities and make a certain report in a certain manner if the~~
10 ~~individual, acting in a professional capacity in this State, has reason to believe a~~
11 ~~child has been subjected to abuse or neglect; making it a misdemeanor, subject~~
12 ~~to a certain penalty, for certain health practitioners, police officers, educators,~~
13 ~~parole and probation agents, and human service workers to knowingly fail to~~
14 ~~provide a certain notice or make a certain report of suspected child abuse or~~
15 ~~neglect under certain circumstances; requiring the Office of the Chief Medical~~
16 ~~Examiner to send an autopsy report to certain officials if the office finds a death~~
17 ~~investigated by the office was caused by or related to child abuse or neglect;~~
18 ~~establishing that an individual who is specifically required to provide a certain~~
19 ~~notice or make a certain report who knowingly fails to provide the notice or~~
20 ~~make the report may be held civilly liable for damages arising from the failure~~
21 ~~to provide the notice or make the report~~ making it a misdemeanor, subject to a
22 certain penalty, for a certain person to knowingly and willfully fail to file a

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.



1 certain report of abuse under certain circumstances; requiring certain entities
2 that employ or contract with a certain person to have a certain policy relating to
3 child abuse and neglect and to provide employees and contractors with certain
4 information; providing that a report concerning child abuse or neglect may be
5 disclosed on request to a certain president of a public institution of higher
6 education or the Chancellor of the University System of Maryland under certain
7 circumstances; establishing the Task Force to Study Training for School
8 Employees and Volunteers on the Prevention, Identification, and Reporting of
9 Child Sexual Abuse; providing for the composition, chair, and staffing of the
10 Task Force; prohibiting a member of the Task Force from receiving certain
11 compensation, but authorizing the reimbursement of certain expenses;
12 requiring the Task Force to study and make recommendations regarding certain
13 matters; requiring the Task Force to report its findings and recommendations to
14 the Governor and to certain committees of the General Assembly on or before a
15 certain date; providing for the termination of certain provisions of this Act; and
16 generally relating to ~~reporting~~ child abuse and neglect.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 5–620
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2011 Supplement)

22 BY adding to
23 Article – Criminal Law
24 Section 3–602.2
25 Annotated Code of Maryland
26 (2002 Volume and 2011 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Family Law
29 Section 5–704
30 Annotated Code of Maryland
31 (2006 Replacement Volume and 2011 Supplement)
32 (As enacted by Chapter 635 of the Acts of the General Assembly of 1987)

33 BY adding to
34 Article – Family Law
35 Section 5–705.2
36 Annotated Code of Maryland
37 (2006 Replacement Volume and 2011 Supplement)

38 BY repealing and reenacting, with amendments,
39 Article – Family Law
40 Section 5–708
41 Annotated Code of Maryland
42 (2006 Replacement Volume and 2011 Supplement)

1 BY repealing and reenacting, without amendments,
 2 Article – Human Services
 3 Section 1–202(a) and (c)(2)
 4 Annotated Code of Maryland
 5 (2007 Volume and 2011 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article – Human Services
 8 Section 1–202(c)(1)(ix) and (x)
 9 Annotated Code of Maryland
 10 (2007 Volume and 2011 Supplement)

11 BY adding to
 12 Article – Human Services
 13 Section 1–202(c)(1)(xi)
 14 Annotated Code of Maryland
 15 (2007 Volume and 2011 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 5–620.

20 Any person who in good faith **PROVIDES OR PARTICIPATES IN PROVIDING**
 21 **NOTICE OF ABUSE OR NEGLECT UNDER § 5–704(A) OR WHO** makes or participates
 22 in making a report of abuse or neglect under [§ 5–704] **§ 5–704(B)**, § 5–705, or
 23 § 5–705.1 of the Family Law Article or participates in an investigation or a resulting
 24 judicial proceeding is immune from any civil liability or criminal penalty that would
 25 otherwise result from making or participating in a report of abuse or neglect or
 26 participating in an investigation or a resulting judicial proceeding.

27 **Article – Criminal Law**

28 **3–602.2.**

29 **(A) AN INDIVIDUAL REQUIRED TO FILE A REPORT UNDER § 5–704 OF**
 30 **THE FAMILY LAW ARTICLE MAY NOT KNOWINGLY AND WILLFULLY FAIL TO FILE**
 31 **A REPORT OF ABUSE AS REQUIRED UNDER § 5–704 OF THE FAMILY LAW**
 32 **ARTICLE IF:**

33 **(1) THE INDIVIDUAL:**

~~1 DAMAGES ARISING FROM THE FAILURE TO PROVIDE NOTICE OR MAKE THE~~
~~2 REPORT.~~

3 5-705.2.

4 A PROPRIETORSHIP, PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION,
 5 OR OTHER PUBLIC OR PRIVATE ENTITY THAT EMPLOYS OR CONTRACTS WITH A
 6 PERSON REQUIRED UNDER § 5-704 OF THIS SUBTITLE TO REPORT ABUSE OR
 7 NEGLECT SHALL:

8 (1) HAVE A POLICY REQUIRING COMPLIANCE WITH ALL LAWS AND
 9 REGULATIONS REGARDING CHILD ABUSE AND NEGLECT; AND

10 (2) PROVIDE EMPLOYEES AND CONTRACTORS WITH
 11 INFORMATION REGARDING HOW TO REPORT CHILD ABUSE AND NEGLECT.

12 5-708.

13 Any person who PROVIDES OR PARTICIPATES IN PROVIDING NOTICE OF
 14 ABUSE OR NEGLECT UNDER § 5-704(A) OR WHO makes or participates in making a
 15 report of abuse or neglect under [§ 5-704] § 5-704(B), § 5-705, or § 5-705.1 of this
 16 subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle
 17 or participates in an investigation or a resulting judicial proceeding shall have the
 18 immunity described under § 5-620 of the Courts and Judicial Proceedings Article from
 19 civil liability or criminal penalty.

20 Article – Human Services

21 1-202.

22 (a) Except as otherwise provided in Title 5, Subtitles 7 and 12 of the Family
 23 Law Article, § 1-203 of this subtitle, and this section, a person may not disclose a
 24 report or record concerning child abuse or neglect.

25 (c) A report or record concerning child abuse or neglect:

26 (1) may be disclosed on request to:

27 (ix) the Juvenile Justice Monitoring Unit of the Office of the
 28 Attorney General established under Title 6, Subtitle 4 of the State Government
 29 Article; [or]

30 (x) subject to subsection (d) of this section, a licensed
 31 practitioner of a hospital or birthing center to make discharge decisions concerning a
 32 child, when the practitioner suspects that the child may be in danger after discharge

1 based on the practitioner's observation of the behavior of the child's parents or
2 immediate family members; [and] OR

3 (XI) THE PRESIDENT OF A PUBLIC INSTITUTION OF HIGHER
4 EDUCATION, AS DEFINED IN § 10-101(F) OF THE EDUCATION ARTICLE, OR THE
5 CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND TO CARRY OUT
6 APPROPRIATE PERSONNEL OR ADMINISTRATIVE ACTION FOLLOWING A REPORT
7 OF SUSPECTED CHILD ABUSE COMMITTED:

8 1. BY A CURRENT EMPLOYEE;

9 2. BY A CONTRACTOR, EMPLOYEE OF A
10 CONTRACTOR, OR VOLUNTEER OF THE INSTITUTION WHO HAS ON-CAMPUS
11 CONTACT WITH CHILDREN;

12 3. IN CONNECTION WITH AN INSTITUTION
13 SPONSORED, RECOGNIZED, OR APPROVED PROGRAM, CAMP, OR OTHER
14 ACTIVITY; OR

15 4. ON INSTITUTION PROPERTY; AND

16 (2) may be disclosed by the Department of Human Resources to the
17 operator of a child care center that is required to be licensed or to hold a letter of
18 compliance under Title 5, Subtitle 5, Part VII of the Family Law Article or to a family
19 child care provider who is required to be registered under Title 5, Subtitle 5, Part V of
20 the Family Law Article, to determine the suitability of an individual for employment
21 in the child care center or family child care home.

22 SECTION 2. AND BE IT FURTHER ENACTED, That:

23 (a) There is a Task Force to Study Training for School Employees and
24 Volunteers on the Prevention, Identification, and Reporting of Child Sexual Abuse.

25 (b) The Task Force consists of the following members:

26 (1) two members of the Senate of Maryland, appointed by the
27 President of the Senate;

28 (2) two members of the House of Delegates, appointed by the Speaker
29 of the House;

30 (3) the State Superintendent of Education, or the Superintendent's
31 designee;

32 (4) the Secretary of Health and Mental Hygiene, or the Secretary's
33 designee;

- 1 (5) the Secretary of Human Resources, or the Secretary's designee;
- 2 (6) the Secretary of Juvenile Services, or the Secretary's designee; and
- 3 (7) the following six members, appointed by the Governor:
- 4 (i) one representative of the Governor's Office of Crime Control
5 and Prevention;
- 6 (ii) one representative of the State Council on Child Abuse and
7 Neglect;
- 8 (iii) one representative of public school employees with expertise
9 regarding the current operations and training practices within nonpublic schools on
10 the prevention, identification, and reporting of child sexual abuse;
- 11 (iv) one representative of nonpublic school employees with
12 expertise regarding the current operations and training practices within public schools
13 on the prevention, identification, and reporting of child sexual abuse;
- 14 (v) one representative of the federally recognized State sexual
15 assault coalition; and
- 16 (vi) one representative of a child advocacy center with expertise
17 in sexual abuse and victimization.
- 18 (c) The Governor shall designate the chair of the Task Force.
- 19 (d) The State Department of Education shall provide staff for the Task Force.
- 20 (e) A member of the Task Force:
- 21 (1) may not receive compensation as a member of the Task Force; but
- 22 (2) is entitled to reimbursement for expenses under the Standard
23 State Travel Regulations, as provided in the State budget.
- 24 (f) The Task Force shall:
- 25 (1) study:
- 26 (i) current practices and resources used by local school systems
27 to train employees and volunteers on the prevention, identification, and reporting of
28 child sexual abuse;

1 (ii) nationally recognized model programs for training
2 professional school employees on the prevention, identification, and reporting of child
3 sexual abuse;

4 (iii) the current child sexual abuse prevention curriculum in
5 schools; and

6 (iv) the resources currently available in the State for the
7 prevention, identification, and reporting of child sexual abuse, including resources
8 available through sexual assault programs, child advocacy centers, and nonprofit
9 organizations; and

10 (2) make recommendations regarding:

11 (i) whether training on child sexual abuse should be
12 incorporated into broader training on all child abuse and neglect, should be addressed
13 separately, or both;

14 (ii) whether certain school-based employees, including guidance
15 counselors and psychologists, should receive additional training on the identification
16 and reporting of child sexual abuse;

17 (iii) whether an age-appropriate statewide child sexual abuse
18 curriculum is advisable for elementary school students; and

19 (iv) the best practices for training school employees and
20 volunteers on the prevention, identification, and reporting of child sexual abuse.

21 (g) On or before December 1, 2012, the Task Force shall report its findings
22 and recommendations on the best practices for training school employees and
23 volunteers on the prevention, identification, and reporting of child sexual abuse to the
24 Governor and, in accordance with § 2-1246 of the State Government Article, the
25 Senate Education, Health, and Environmental Affairs Committee, the Senate Judicial
26 Proceedings Committee, the House Committee on Ways and Means, and the House
27 Judiciary Committee.

28 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
29 take effect October 1, 2012.

30 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
31 this Act, this Act shall take effect ~~October 1, 2012~~ June 1, 2012. Section 2 of this Act
32 shall remain effective for a period of 1 year and, at the end of May 31, 2013, with no
33 further action required by the General Assembly, Section 2 of this Act shall be
34 abrogated and of no further force and effect.