

# HOUSE BILL 386

D4

5lr1769

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By: **Delegate Valentino-Smith**

Introduced and read first time: February 6, 2015

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Centralized Confidential Database**

3 FOR the purpose of requiring a local department of social services to notify in writing an  
4 individual who has been found responsible for certain child abuse or neglect that the  
5 individual may be identified as a maltreater in the centralized confidential database  
6 of the Department of Human Resources and that certain information concerning the  
7 individual may be disclosed under certain circumstances; repealing provisions  
8 authorizing the Social Services Administration and each local department to  
9 maintain a central registry of child abuse and neglect cases and substituting  
10 provisions authorizing the Administration to maintain a centralized confidential  
11 database of child abuse and neglect cases; requiring each local department to enter  
12 and have access to certain information in the centralized confidential database;  
13 repealing certain provisions relating to information that is authorized to be included  
14 in the central registry and information that is prohibited from being included in the  
15 central registry; specifying that the information in the centralized confidential  
16 database shall only be accessible to certain individuals or entities; specifying the  
17 conditions under which an individual may be identified as a maltreater in the  
18 centralized confidential database; repealing certain provisions relating to the  
19 removal of certain information from the central registry under certain  
20 circumstances; prohibiting the centralized confidential database from containing  
21 certain information that is required to be expunged; prohibiting certain information  
22 in the centralized confidential database from being provided in response to a request  
23 for background information for employment or voluntary service except under  
24 certain circumstances; prohibiting an individual from being identified as a  
25 maltreater in the centralized confidential database solely because of certain factors;  
26 making certain conforming changes; altering certain definitions; and generally  
27 relating to child abuse and neglect and the centralized confidential database.

28 BY repealing and reenacting, without amendments,

29 Article – Family Law

30 Section 5–701(a)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2012 Replacement Volume and 2014 Supplement)

3 BY repealing and reenacting, with amendments,  
4 Article – Family Law  
5 Section 5–701(d), 5–706.1, and 5–714  
6 Annotated Code of Maryland  
7 (2012 Replacement Volume and 2014 Supplement)

8 BY repealing  
9 Article – Family Law  
10 Section 5–701(l)  
11 Annotated Code of Maryland  
12 (2012 Replacement Volume and 2014 Supplement)

13 BY adding to  
14 Article – Family Law  
15 Section 5–701(l)  
16 Annotated Code of Maryland  
17 (2012 Replacement Volume and 2014 Supplement)

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

20 **Article – Family Law**

21 5–701.

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

24 (d) [(1) Except as provided in paragraph (2) of this subsection, “central  
25 registry”] **“CENTRALIZED CONFIDENTIAL DATABASE”** means [any component of] the  
26 Department’s confidential computerized [database] **DATA SYSTEM** that contains  
27 information regarding child abuse and neglect investigations **AND ASSESSMENTS**.

28 [(2) “Central registry” does not include a local department case file.]

29 [(l) “Identifying information” means the name of:

30 (1) the child who is alleged to have been abused or neglected;

31 (2) a member of the household of the child;

32 (3) a parent or legal guardian of the child; or

1 (4) an individual suspected of being responsible for abuse or neglect of the  
2 child.]

3 (L) **“IDENTIFIED AS A MALTREATOR” MEANS BEING LABELED WITH THE**  
4 **WORD “MALTREATOR” IN THE CENTRALIZED CONFIDENTIAL DATABASE.**

5 5–706.1.

6 (a) Within 30 days after the completion of an investigation in which there has  
7 been a finding of indicated or unsubstantiated abuse or neglect, the local department shall  
8 notify in writing the individual alleged to have abused or neglected a child:

9 (1) of the finding;

10 (2) of the opportunity to appeal the finding in accordance with this section;  
11 and

12 (3) if the individual has been found responsible for indicated abuse or  
13 neglect, that:

14 (I) the individual may be identified [in a central registry as  
15 responsible for abuse or neglect] **AS A MALTREATOR IN THE CENTRALIZED**  
16 **CONFIDENTIAL DATABASE** under the circumstances specified in [§ 5–714(e)] **§ 5–714(D)**  
17 of this subtitle; **AND**

18 (II) **IF THE INDIVIDUAL IS IDENTIFIED AS A MALTREATOR, THAT**  
19 **INFORMATION MAY BE DISCLOSED WITH THE INDIVIDUAL’S CONSENT ON**  
20 **APPROPRIATE REQUEST FOR BACKGROUND INFORMATION FOR EMPLOYMENT OR**  
21 **VOLUNTARY SERVICE.**

22 (b) (1) In the case of a finding of indicated abuse or neglect, an individual may  
23 request a contested case hearing to appeal the finding in accordance with Title 10, Subtitle  
24 2 of the State Government Article by responding to the notice of the local department in  
25 writing within 60 days.

26 (2) Unless the individual and the department agree on another location, a  
27 contested case hearing shall be held in the jurisdiction in which the individual alleged to  
28 have abused or neglected a child resides.

29 (3) (i) If a criminal proceeding is pending on charges arising out of the  
30 alleged abuse or neglect, the Office of Administrative Hearings shall stay the hearing until  
31 a final disposition is made.

32 (ii) If after final disposition of the criminal charge, the individual  
33 requesting the hearing is found guilty of any criminal charge arising out of the alleged

1 abuse or neglect, the Office of Administrative Hearings shall dismiss the administrative  
2 appeal.

3 (4) (i) If a CINA case is pending concerning a child who has been  
4 allegedly abused or neglected by the appellant or a child in the care, custody, or household  
5 of the appellant, the Office of Administrative Hearings shall stay the hearing until the  
6 CINA case is concluded.

7 (ii) After the conclusion of the CINA case, the Office of  
8 Administrative Hearings shall vacate the stay and schedule further proceedings in  
9 accordance with this section.

10 (c) (1) In the case of a finding of unsubstantiated abuse or neglect, an  
11 individual may request a conference with a supervisor in the local department by  
12 responding to the notice of the local department in writing within 60 days.

13 (2) In response to a timely request for a conference, a local department  
14 supervisor shall schedule a conference, to occur within 30 days after the supervisor receives  
15 the request, to allow the individual an opportunity to review the redacted record and  
16 request corrections or to supplement the record.

17 (3) Within 10 days after the conference, the local department shall send to  
18 the individual:

19 (i) a written summary of the conference and of any modifications to  
20 be made in the record; and

21 (ii) notice of the individual's right to request a contested case hearing  
22 in accordance with paragraph (4) of this subsection.

23 (4) (i) The individual may request a contested case hearing in  
24 accordance with subsection (b) of this section to appeal the outcome of the conference by  
25 responding to the summary in writing within 60 days.

26 (ii) If the individual does not receive the written summary and notice  
27 specified in paragraph (3) of this subsection within 20 days, the individual may request a  
28 contested case hearing.

29 (iii) An individual may request a contested case hearing in the case  
30 of a finding of unsubstantiated abuse or neglect only as provided in this paragraph.

31 (d) In the case of an unexpunged finding of indicated or unsubstantiated abuse or  
32 neglect made prior to June 1, 1999, the local department shall provide the individual with  
33 an opportunity to appeal the finding in accordance with this section if the individual:

34 (1) requests such an appeal;

1 (2) has not been offered an opportunity to request a contested case hearing;  
2 and

3 (3) has not been found guilty of any criminal charge arising out of the  
4 alleged abuse or neglect.

5 5-714.

6 (a) The Social Services Administration [and each local department] may  
7 maintain a [central registry] **CENTRALIZED CONFIDENTIAL DATABASE** of cases reported  
8 under this subtitle.

9 (b) [(1)] Each local department shall [provide the information for a central  
10 registry] **ENTER AND HAVE ACCESS TO INFORMATION IN THE CENTRALIZED**  
11 **CONFIDENTIAL DATABASE RELATED TO REPORTS, INVESTIGATIONS, AND**  
12 **ASSESSMENTS OF SUSPECTED ABUSE OR NEGLECT.**

13 [(2)] Except for identifying information authorized under subsection (d) of  
14 this section, a central registry may not include information from a local department case  
15 file until any individual found responsible for indicated or unsubstantiated child abuse or  
16 neglect has:

17 (i) been found guilty of any criminal charge arising from the alleged  
18 abuse or neglect;

19 (ii) unsuccessfully appealed the finding in accordance with the  
20 procedures established under § 5-706.1 of this subtitle; or

21 (iii) failed to exercise the appeal rights within the time frames  
22 specified in § 5-706.1 of this subtitle, Title 10, Subtitle 2 of the State Government Article,  
23 or the Maryland Rules.]

24 (c) The information in a [central registry] **CENTRALIZED CONFIDENTIAL**  
25 **DATABASE** shall [be at the disposal of] **BE ACCESSIBLE ONLY TO:**

26 (1) the protective services staff of the Administration;

27 (2) the protective services staffs of local departments who are investigating  
28 **OR ASSESSING** a report of suspected abuse or neglect; and

29 (3) [law enforcement personnel who are investigating a report of suspected  
30 abuse or neglect] **AN INDIVIDUAL OR ENTITY SPECIFICALLY AUTHORIZED BY LAW TO**  
31 **ACCESS THE INFORMATION.**

1 (d) [(1) Except as provided in paragraph (2) of this subsection, and subject to  
2 subsection (e) of this section, a central registry may contain identifying information related  
3 to an investigation of abuse or neglect.

4 (2) A central registry may not contain identifying information related to an  
5 investigation of abuse or neglect if:

6 (i) abuse or neglect has been ruled out; or

7 (ii) the abuse or neglect finding has been expunged in accordance  
8 with § 5-707(b)(1) of this subtitle.

9 (e) (1) The Department or a local department may identify an individual as  
10 responsible for abuse or neglect in a central registry] **AN INDIVIDUAL MAY BE**  
11 **IDENTIFIED AS A MALTREATOR IN THE CENTRALIZED CONFIDENTIAL DATABASE** only  
12 if the individual:

13 [(i)] **(1)** has been found guilty of any criminal charge arising out of  
14 the alleged abuse or neglect; or

15 [(ii)] **(2)** has been found responsible for indicated abuse or neglect  
16 and has:

17 [1.] **(I)** unsuccessfully appealed the finding in  
18 accordance with the procedures established under § 5-706.1 of this subtitle; or

19 [2.] **(II)** failed to exercise the individual's appeal  
20 rights within the time frames specified in § 5-706.1 of this subtitle, Title 10, Subtitle 2 of  
21 the State Government Article, or the Maryland Rules.

22 [(2) The Department without the necessity of a request shall remove from  
23 the name of an individual described in paragraph (1) of this subsection the identification of  
24 that individual as responsible for abuse or neglect if no entry has been made for that  
25 individual for 7 years after the entry of the individual's name in a registry.]

26 **(E) THE CENTRALIZED CONFIDENTIAL DATABASE MAY NOT CONTAIN ANY**  
27 **INFORMATION THAT IS REQUIRED TO BE EXPUNGED UNDER § 5-707 OF THIS**  
28 **SUBTITLE.**

29 (f) (1) [Except for information entered in accordance with subsection (e) of this  
30 section, information in a central registry may not be used as a sole basis for responding]  
31 **UNLESS AN INDIVIDUAL HAS BEEN IDENTIFIED AS A MALTREATOR IN THE**  
32 **CENTRALIZED CONFIDENTIAL DATABASE, INFORMATION IN THE CENTRALIZED**  
33 **CONFIDENTIAL DATABASE MAY NOT BE PROVIDED IN RESPONSE** to any request for  
34 background information for employment or voluntary service.

1           (2) An official or employee of the Department or a local department who  
2 releases information from [a central registry] **THE CENTRALIZED CONFIDENTIAL**  
3 **DATABASE** in violation of paragraph (1) of this subsection is subject to the penalty provided  
4 in § 1-202(f) of the Human Services Article.

5           (g) Notwithstanding any other provision of law, [the central registry may not  
6 include the identity of an individual related to an investigation of neglect or found  
7 responsible for neglect when] **AN INDIVIDUAL MAY NOT BE IDENTIFIED AS A**  
8 **MALTREATOR IN THE CENTRALIZED CONFIDENTIAL DATABASE SOLELY BECAUSE:**

9           (1) a child has been released from a hospital or other facility;

10           (2) the child has been diagnosed with a mental disorder or developmental  
11 disability; and

12           (3) the individual has failed to take the child home due to a reasonable fear  
13 for the safety of the child or child's family.

14           (h) The Secretary of Human Resources:

15           (1) shall adopt regulations necessary to protect the rights of individuals  
16 suspected of abuse or neglect; and

17           (2) may adopt regulations to implement the provisions of this section.

18           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2015.