

SENATE BILL 47

O2

(71r0081)

ENROLLED BILL

— Finance/Health and Government Operations —

Introduced by **Chair, Finance Committee (By Request – Departmental – Aging)**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Reporting Abuse to the Long-Term Care Ombudsman Program and the Office of**
3 **Health Care Quality**

4 FOR the purpose of establishing a certain exception to certain provisions of law requiring
5 reporting of suspected abuse, neglect, self-neglect, or exploitation of an alleged
6 vulnerable adult; clarifying the entities to which a person is required to report
7 suspected abuse of a resident of a certain related institution; requiring a report to
8 each entity; requiring the Office of Health Care Quality to notify promptly the
9 Long-Term Care Ombudsman Program if the Office receives a certain report;
10 ~~repealing altering~~ a requirement that a recipient of a certain report promptly notify
11 certain other persons; ~~establishing that the Long-Term Care Ombudsman Program~~
12 ~~may notify certain entities of certain alleged abuse only under certain circumstances;~~
13 clarifying the entities to which a law enforcement agency is required to submit a
14 report of the findings of a certain investigation; clarifying the entities to which the
15 Secretary of Health and Mental Hygiene is required to submit a report of the findings

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.

Italics indicate opposite chamber/conference committee amendments.



1 of a certain investigation; and generally relating to certain abuse reporting
2 requirements.

3 BY repealing and reenacting, with amendments,
4 Article – Family Law
5 Section 14–302
6 Annotated Code of Maryland
7 (2012 Replacement Volume and 2016 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Health – General
10 Section 19–347
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2016 Supplement)

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

15 **Article – Family Law**

16 14–302.

17 (a) **(1) [Notwithstanding] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
18 **THIS SUBSECTION, NOTWITHSTANDING** any law on privileged communications, each
19 health practitioner, police officer, or human service worker who contacts, examines,
20 attends, or treats an alleged vulnerable adult, and who has reason to believe that the
21 alleged vulnerable adult has been subjected to abuse, neglect, self–neglect, or exploitation
22 shall:

23 **[(1)] (I)** notify the local department; and

24 **[(2)] (II)** if acting as a staff member of a hospital or public health agency,
25 immediately notify and give all the information required by this section to the head of the
26 institution or the designee of the head.

27 **(2) AN OMBUDSMAN, AS DEFINED IN § 10–901 OF THE HUMAN**
28 **SERVICES ARTICLE, SHALL COMPLY WITH 42 U.S.C. § 3058G(D)(2) AND MAY NOT**
29 **DISCLOSE THE IDENTITY OF A RESIDENT OR COMPLAINANT EXCEPT AS AUTHORIZED**
30 **UNDER 42 U.S.C. § 3058G(D)(2).**

31 (b) An individual who is required to make a report under subsection (a) of this
32 section shall make the report by telephone, direct communication, or in writing to the local
33 department as soon as possible.

34 (c) Any individual other than a health practitioner, human service worker, or
35 police officer who has reason to believe that an alleged vulnerable adult has been subjected

1 to abuse, neglect, self–neglect, or exploitation may file with the local department an oral or
2 written report of the suspected abuse, neglect, self–neglect, or exploitation.

3 (d) Insofar as is reasonably possible, an individual who makes a report under this
4 section shall include in the report the following information:

5 (1) the name, age, and home address of the alleged vulnerable adult;

6 (2) the name and home address of the person responsible for the care of the
7 alleged vulnerable adult;

8 (3) the whereabouts of the alleged vulnerable adult;

9 (4) the nature of the alleged vulnerable adult’s incapacity;

10 (5) the nature and extent of the abuse, neglect, self–neglect, or exploitation
11 of the alleged vulnerable adult, including evidence or information available to the reporter
12 concerning previous injury possibly resulting from abuse, neglect, self–neglect, or
13 exploitation; and

14 (6) any other information that would help to determine:

15 (i) the cause of the suspected abuse, neglect, self–neglect, or
16 exploitation; and

17 (ii) the identity of any individual responsible for the abuse, neglect,
18 self–neglect, or exploitation.

19 Article – Health – General

20 19–347.

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

22 (2) (i) “Abuse” means the non–therapeutic infliction of physical pain or
23 injury, or any persistent course of conduct intended to produce or resulting in mental or
24 emotional distress.

25 (ii) “Abuse” does not include the performance of an accepted medical
26 procedure that a physician orders.

27 (3) “Law enforcement agency” means the Department of State Police or a
28 police agency of a county or municipal corporation.

29 (b) (1) A person who believes that a resident of a related institution has been
30 abused shall report promptly the alleged abuse to an appropriate law enforcement agency,
31 AND the [Secretary] **OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT**, ~~or~~

1 ~~AND the [Department of Aging] LONG TERM CARE OMBUDSMAN PROGRAM~~
 2 ~~ESTABLISHED UNDER § 10-902 OF THE HUMAN SERVICES ARTICLE.~~

3 (2) A report:

4 (i) May be oral or written; and

5 (ii) Shall contain as much information as the reporter is able to
 6 provide.

7 (3) [The recipient of the report promptly shall notify:

8 (i) The other parties referred to in paragraph (1) of this subsection;
 9 and

10 (ii) (I) Unless the administrator is the alleged abuser, A
 11 RECIPIENT OF A REPORT PROMPTLY SHALL NOTIFY, TO THE EXTENT ALLOWED BY
 12 FEDERAL AND STATE LAW, the administrator of the related institution. ~~THE~~
 13 ~~LONG TERM CARE OMBUDSMAN PROGRAM MAY NOTIFY THE OFFICE OF HEALTH~~
 14 ~~CARE QUALITY OR A LAW ENFORCEMENT AGENCY OF AN ALLEGED ABUSE ONLY IF~~
 15 ~~THE RESIDENT OR THE RESIDENT'S LEGAL REPRESENTATIVE CONSENTS TO THE~~
 16 ~~NOTIFICATION.~~

17 (II) IF THE OFFICE OF HEALTH CARE QUALITY RECEIVES A
 18 REPORT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE PROMPTLY
 19 SHALL NOTIFY THE LONG-TERM CARE OMBUDSMAN PROGRAM ESTABLISHED
 20 UNDER § 10-902 OF THE HUMAN SERVICES ARTICLE.

21 (c) Any employee of a related institution who is required to report alleged abuse
 22 under subsection (b) of this section, and who fails to report the alleged abuse within 3 days
 23 after learning of the alleged abuse, is liable for a civil penalty of not more than \$1,000.

24 (d) (1) Unless otherwise provided, the law enforcement agency, with the
 25 assistance of the Secretary, shall:

26 (i) Investigate thoroughly each report of an alleged abuse; and

27 (ii) Attempt to insure the protection of the alleged victim.

28 (2) The investigation shall include:

29 (i) A determination of the nature, extent, and cause of the abuse;

30 (ii) The identity of the alleged abuser; and

31 (iii) Any other pertinent fact or matter.

1 (3) Within 10 working days after the completion of the investigation, the
2 law enforcement agency shall submit a written report of its findings to:

3 (i) The State's Attorney;

4 (ii) The Secretary;

5 (iii) The local [ombudsman as designated by the Secretary of Aging]
6 **LONG-TERM CARE OMBUDSMAN ENTITY, AS DEFINED IN § 10-901 OF THE HUMAN**
7 **SERVICES ARTICLE;**

8 (iv) Unless the administrator is the alleged abuser, the
9 administrator of the related institution; and

10 (v) The [Division of Licensing and Certification] **OFFICE OF**
11 **HEALTH CARE QUALITY** of the Department of Health and Mental Hygiene.

12 (e) The law enforcement agency:

13 (1) Shall refer to the Secretary for investigation reported instances of abuse
14 involving any persistent course of conduct intended to produce or resulting in mental or
15 emotional distress; and

16 (2) May refer to the Secretary for investigation reported instances of
17 patient-to-patient abuse.

18 (f) Within 10 working days after the completion of an investigation under
19 subsection (d) of this section, the Secretary shall submit a written report of its findings to:

20 (1) The State's Attorney;

21 (2) The local [ombudsman as designated by the Secretary of Aging]
22 **LONG-TERM CARE OMBUDSMAN ENTITY, AS DEFINED IN § 10-901 OF THE HUMAN**
23 **SERVICES ARTICLE;** and

24 (3) Unless the administrator is the alleged abuser, the administrator of the
25 related institution.

26 (g) A person shall have the immunity from liability described under § 5-631 of
27 the Courts and Judicial Proceedings Article for:

28 (1) Making a report under this section;

29 (2) Participating in an investigation arising out of a report under this
30 section;

1 (3) Participating in a judicial proceeding arising out of a report under this
2 section; or

3 (4) Participating in transferring, suspending, or terminating the
4 employment of any individual who is believed to have abused or aided in abusing a resident
5 under this section.

6 (h) (1) The Department shall provide each related institution with signs that
7 set forth the reporting requirements under this section.

8 (2) The related institution shall post the signs conspicuously in the
9 employee and public areas of the related institution.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2017.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.