

HOUSE BILL 1069

E1, D4

9lr2302

By: **Delegates Lisanti, Chang, McComas, and Rogers**

Introduced and read first time: February 8, 2019

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Required Reporting**

3 FOR the purpose of establishing certain criminal penalties for persons who intentionally
4 fail to provide certain required notice or make certain required reports of suspected
5 child abuse or neglect under certain circumstances; adding a minister of the gospel,
6 clergyman, or priest of an established church of any denomination to a list of
7 individuals who are required to provide certain notice and make a certain report of
8 suspected child abuse or neglect, subject to a certain exception; providing that a
9 certain crime is not covered by the 1–year statute of limitations for a misdemeanor;
10 providing for the construction of a certain provision of this Act; making a certain
11 conforming change; and generally relating to child abuse and neglect.

12 BY adding to

13 Article – Criminal Law

14 Section 3–602.2

15 Annotated Code of Maryland

16 (2012 Replacement Volume and 2018 Supplement)

17 BY repealing and reenacting, with amendments,

18 Article – Family Law

19 Section 5–704 and 5–705

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2018 Supplement)

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

24 **Article – Criminal Law**

25 **3–602.2.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) (1) A PERSON WHO IS REQUIRED TO PROVIDE NOTICE OF SUSPECTED**
2 **ABUSE OR NEGLECT OF A CHILD OR MAKE A WRITTEN REPORT OF SUSPECTED ABUSE**
3 **OR NEGLECT OF A CHILD UNDER § 5-704 OF THE FAMILY LAW ARTICLE MAY NOT**
4 **INTENTIONALLY FAIL TO PROVIDE THE REQUIRED NOTICE OR MAKE THE REQUIRED**
5 **WRITTEN REPORT.**

6 **(2) A PERSON MAY NOT COMMIT A VIOLATION OF PARAGRAPH (1) OF**
7 **THIS SUBSECTION IF THE PERSON:**

8 **(I) HAS ACTUAL KNOWLEDGE OF THE ABUSE OR NEGLECT; OR**

9 **(II) INTENTIONALLY FAILS TO PROVIDE THE REQUIRED NOTICE**
10 **OR MAKE THE REQUIRED WRITTEN REPORT AS PART OF A PLAN OR SCHEME WITH**
11 **THE INTENT OF PROTECTING ANOTHER FROM CRIMINAL PROSECUTION OR CIVIL**
12 **LIABILITY.**

13 **(B) (1) A PERSON WHO VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS:**

14 **(I) GUILTY OF A MISDEMEANOR AND ON CONVICTION IS**
15 **SUBJECT TO A FINE NOT EXCEEDING \$1,000 OR IMPRISONMENT NOT EXCEEDING 6**
16 **MONTHS OR BOTH; AND**

17 **(II) SUBJECT TO § 5-106(B) OF THE COURTS ARTICLE.**

18 **(2) A PERSON WHO VIOLATES SUBSECTION (A)(2) OF THIS SECTION IS**
19 **GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
20 **\$3,500 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

21 **Article – Family Law**

22 5-704.

23 **(a) (1) [Notwithstanding] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF**
24 **THIS SUBSECTION, NOTWITHSTANDING any other provision of law, including any law on**
25 **privileged communications, each health practitioner, police officer, educator, or human**
26 **service worker, OR MINISTER OF THE GOSPEL, CLERGYMAN, OR PRIEST OF AN**
27 **ESTABLISHED CHURCH OF ANY DENOMINATION, acting in a professional capacity in this**
28 **State:**

29 **[(1)] (I) who has reason to believe that a child has been subjected to abuse**
30 **or neglect, shall notify the local department or the appropriate law enforcement agency;**
31 **and**

1 **[(2)] (II)** if acting as a staff member of a hospital, public health agency,
2 child care institution, juvenile detention center, school, or similar institution, shall
3 immediately notify and give all information required by this section to the head of the
4 institution or the designee of the head.

5 **(2) A MINISTER OF THE GOSPEL, CLERGYMAN, OR PRIEST OF AN**
6 **ESTABLISHED CHURCH OF ANY DENOMINATION IS NOT REQUIRED TO PROVIDE**
7 **NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE NOTICE WOULD**
8 **DISCLOSE MATTER IN RELATION TO ANY COMMUNICATION DESCRIBED IN § 9–111 OF**
9 **THE COURTS ARTICLE AND:**

10 **(I) THE COMMUNICATION WAS MADE TO THE MINISTER,**
11 **CLERGYMAN, OR PRIEST IN A PROFESSIONAL CHARACTER IN THE COURSE OF**
12 **DISCIPLINE ENJOINED BY THE CHURCH TO WHICH THE MINISTER, CLERGYMAN, OR**
13 **PRIEST BELONGS; AND**

14 **(II) THE MINISTER, CLERGYMAN, OR PRIEST IS BOUND TO**
15 **MAINTAIN THE CONFIDENTIALITY OF THAT COMMUNICATION UNDER CANON LAW,**
16 **CHURCH DOCTRINE, OR PRACTICE.**

17 (b) (1) An individual who notifies the appropriate authorities under subsection
18 (a) of this section shall make:

19 (i) an oral report, by telephone or direct communication, as soon as
20 possible to the local department or appropriate law enforcement agency; and

21 (ii) a written report:

22 1. to the local department not later than 48 hours after the
23 contact, examination, attention, or treatment that caused the individual to believe that the
24 child had been subjected to abuse or neglect; and

25 2. with a copy to the local State's Attorney.

26 (2) (i) An agency to which an oral report of suspected abuse or neglect
27 is made under paragraph (1) of this subsection shall immediately notify the other agency.

28 (ii) This paragraph does not prohibit a local department and an
29 appropriate law enforcement agency from agreeing to cooperative arrangements.

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

32 (1) the name, age, and home address of the child;

33 (2) the name and home address of the child's parent or other person who is

1 responsible for the child's care;

2 (3) the whereabouts of the child;

3 (4) the nature and extent of the abuse or neglect of the child, including any
4 evidence or information available to the reporter concerning possible previous instances of
5 abuse or neglect; and

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

7 (i) the cause of the suspected abuse or neglect; and

8 (ii) the identity of any individual responsible for the abuse or neglect.

9 **(D) THIS SECTION MAY NOT BE CONSTRUED TO MODIFY OR LIMIT THE DUTY**
10 **OF A MINISTER, CLERGYMAN, OR PRIEST TO REPORT ABUSE OR NEGLECT UNDER**
11 **THIS SECTION WHEN THE MINISTER, CLERGYMAN, OR PRIEST IS ACTING IN THE**
12 **CAPACITY OF A HEALTH PRACTITIONER, AN EDUCATOR, OR A HUMAN SERVICE**
13 **WORKER.**

14 5-705.

15 (a) (1) Except as provided in [paragraphs] **PARAGRAPH (2) [and (3)]** of this
16 subsection, notwithstanding any other provision of law, including a law on privileged
17 communications, [a person] **AN INDIVIDUAL** in this State other than [a health practitioner,
18 police officer, or educator or human service worker] **AN INDIVIDUAL REQUIRED TO**
19 **REPORT SUSPECTED ABUSE OR NEGLECT UNDER § 5-704 OF THIS SUBTITLE** who has
20 reason to believe that a child has been subjected to abuse or neglect shall notify the local
21 department or the appropriate law enforcement agency.

22 (2) [A person] **AN INDIVIDUAL** is not required to provide notice under
23 paragraph (1) of this subsection:

24 (i) in violation of the privilege described under § 9-108 of the Courts
25 Article;

26 (ii) if the notice would disclose matter communicated in confidence
27 by a client to the client's attorney or other information relating to the representation of the
28 client; or

29 (iii) in violation of any constitutional right to assistance of counsel.

30 [(3) A minister of the gospel, clergyman, or priest of an established church
31 of any denomination is not required to provide notice under paragraph (1) of this subsection
32 if the notice would disclose matter in relation to any communication described in § 9-111
33 of the Courts Article and:

1 (i) the communication was made to the minister, clergyman, or
2 priest in a professional character in the course of discipline enjoined by the church to which
3 the minister, clergyman, or priest belongs; and

4 (ii) the minister, clergyman, or priest is bound to maintain the
5 confidentiality of that communication under canon law, church doctrine, or practice.]

6 (b) (1) An agency to which a report of suspected abuse or neglect is made under
7 subsection (a) of this section shall immediately notify the other agency.

8 (2) This subsection does not prohibit a local department and an appropriate
9 law enforcement agency from agreeing to cooperative arrangements.

10 (c) A report made under subsection (a) of this section may be oral or in writing.

11 (d) (1) To the extent possible, a report made under subsection (a) of this section
12 shall include the information required by § 5-704(c) of this subtitle.

13 (2) A report made under subsection (a) of this section shall be regarded as
14 a report within the provisions of this subtitle, whether or not the report contains all of the
15 information required by § 5-704(c) of this subtitle.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2019.