

SENATE BILL 631

D4, O4
HB 1246/22 – JUD

3lr2158

By: **Senator James**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – Reports and Records – Disclosure**

3 FOR the purpose of ~~providing that~~ requiring a local director of a local department of social
4 services or the Secretary of Human Services to disclose certain reports and records
5 of child abuse and neglect ~~are not confidential~~ within a certain period of time if
6 certain conditions are met; requiring the Secretary to notify the State’s Attorney’s
7 office of a request to disclose certain reports and records of child abuse and neglect;
8 requiring the State’s Attorney’s office to be given a certain period of time during
9 which the office is authorized to redact certain portions of the reports and records
10 under certain circumstances; requiring the State’s Attorney’s office, if the office
11 redacts certain information, to notify the local director or the Secretary within a
12 certain period of time after the conclusion of the related investigation or prosecution;
13 and generally relating to the ~~confidentiality~~ disclosure of reports and records of child
14 abuse and neglect.

15 BY repealing and reenacting, with amendments,
16 Article – Human Services
17 Section 1–203
18 Annotated Code of Maryland
19 (2019 Replacement Volume and 2022 Supplement)

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

22 **Article – Human Services**

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 1-203.

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

3 (2) "Local department" means the department of social services that has
4 jurisdiction in the county:

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

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

8 (3) "Local director" means the director of the local department.

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

13 (5) "Secretary" means the Secretary of Human Services.

14 (b) (1) ~~[Notwithstanding] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF~~
15 ~~THIS SUBSECTION, AND NOTWITHSTANDING~~ any other provision of law, the local
16 director or the Secretary shall, [on] **WITHIN 30 DAYS AFTER RECEIVING A** request,
17 disclose information concerning child abuse or neglect in accordance with subsection (c) of
18 this section if THE CHILD:

19 ~~(i) the information is limited to actions or omissions of the local~~
20 ~~department, the Department of Human Services, or an agent of the Department of Human~~
21 ~~Services;~~

22 ~~(ii) the child named in a report of abuse or neglect has suffered a~~
23 ~~fatality or near fatality; and~~

24 ~~(iii) [1.] the local director or the Secretary [has consulted the~~
25 ~~State's Attorney's office; and~~

26 ~~2. the State's Attorney's office] has BEEN advised [the local~~
27 ~~director or the Secretary] BY THE STATE'S ATTORNEY'S OFFICE that disclosure of the~~
28 ~~information would not jeopardize or prejudice a related investigation or prosecution.~~

29 ~~(2) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A~~
30 ~~REPORT OR RECORD OF CHILD ABUSE OR NEGLECT IS NOT CONFIDENTIAL AND IS~~
31 ~~SUBJECT TO SUBSECTION (D) OF THIS SECTION IF THE REPORT OR RECORD~~
32 ~~PERTAINS TO A CHILD WHO:~~

1 ~~1. SUFFERED A FATALITY OR NEAR FATALITY;~~

2 ~~2. WAS IN THE CUSTODY OF A STATE DEPARTMENT OR~~
3 ~~AGENCY OR IN THE CARE OF A FOSTER PARENT AT THE TIME THE CHILD SUFFERED~~
4 ~~A FATALITY OR NEAR FATALITY; AND~~

5 ~~3. IS THE SUBJECT OF AN INVESTIGATION, A REPORT, A~~
6 ~~REFERRAL, OR A COMPLAINT RECEIVED BY A LOCAL DEPARTMENT.~~

7 ~~(H) ON THE RELEASE OF A REPORT OR RECORD DESCRIBED~~
8 ~~UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LOCAL DIRECTOR OR THE~~
9 ~~SECRETARY MAY COMMENT PUBLICLY ON THE REPORT OR RECORD.~~

10 (I) WAS IN THE CUSTODY OF A LOCAL OR STATE DEPARTMENT
11 OR AGENCY, OR IN THE CARE OF A FOSTER PARENT;

12 (II) IS THE SUBJECT OF AN INVESTIGATION, A REPORT, A
13 REFERRAL, OR A COMPLAINT RECEIVED BY A LOCAL OR STATE DEPARTMENT OR
14 AGENCY; AND

15 (III) SUFFERED A FATALITY OR NEAR FATALITY.

16 (2) (I) ON RECEIVING A REQUEST TO DISCLOSE INFORMATION IN
17 ACCORDANCE WITH PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY
18 PROMPTLY SHALL NOTIFY THE STATE'S ATTORNEY'S OFFICE OF THE REQUEST.

19 (II) THE STATE'S ATTORNEY'S OFFICE SHALL BE ALLOWED 30
20 DAYS FROM RECEIPT OF THE NOTICE REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
21 PARAGRAPH TO REDACT FROM THE RECORD ANY PORTION OF THE RECORD THAT,
22 IF MADE PUBLIC, WOULD SERIOUSLY HINDER THE ABILITY OF THE STATE'S
23 ATTORNEY'S OFFICE TO PROSECUTE A CRIMINAL CASE ARISING FROM THE
24 INCIDENT.

25 ~~[(2)] (3) (i) If the local director or the Secretary does not disclose~~
26 ~~information under paragraph (1) of this subsection because the State's Attorney has~~
27 ~~advised that disclosure of the information would jeopardize or prejudice a related~~
28 ~~investigation or prosecution~~ STATE'S ATTORNEY'S OFFICE REDACTS INFORMATION IN
29 ACCORDANCE WITH PARAGRAPH (2)(II) OF THIS SUBSECTION, the State's Attorney
30 shall notify the local director or the Secretary within 10 days after the conclusion of the
31 related investigation or prosecution.

32 (ii) Within 30 days after notification from the State's Attorney under
33 subparagraph (i) of this paragraph, the local director or the Secretary shall disclose
34 information in accordance with this section.

1 (c) Before disclosing the information:

2 (1) the local director or the Secretary shall consult the State's Attorney's
3 office; and

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

5 (d) Subject to subsection (e) of this section, the local director or the Secretary shall
6 disclose:

7 (1) the name of the allegedly abused or neglected child who has suffered a
8 fatality;

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

11 (3) the findings made by the local department at the conclusion of its
12 investigation and the disposition made by the local department based on its findings;

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

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

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

20 (7) the status of any case involving the child that was open at the time of
21 the fatality or near fatality;

22 (8) a summary of the facts of the fatality or near fatality, including the date
23 of the fatality or near fatality and, in the case of a fatality, the cause of death reported by
24 the medical examiner; and

25 (9) any information concerning the circumstances of the alleged child
26 abuse or neglect and the investigation of the circumstances, if the local director or the
27 Secretary determines that the disclosure is consistent with the public interest.

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

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

1 (ii) disclose the name of a child who has suffered a near fatality, a
2 sibling of the allegedly abused or neglected child, a parent of the allegedly abused or
3 neglected child, an individual legally responsible for the child, the alleged abuser or
4 neglecter, or another household or family member;

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

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

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2023.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.