

UNOFFICIAL COPY OF SENATE BILL 631

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

A BILL ENTITLED

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

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

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

21 **Article - Human Services**

22 1-203.

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

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

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

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

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

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

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

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

11 (i) ~~the information is limited to actions or omissions of the local~~
12 ~~department, the Department of Human Services, or an agent of the Department of Human~~
13 ~~Services;~~

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

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

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

21 ~~(2) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A~~
22 ~~REPORT OR RECORD OF CHILD ABUSE OR NEGLECT IS NOT CONFIDENTIAL AND IS~~
23 ~~SUBJECT TO SUBSECTION (D) OF THIS SECTION IF THE REPORT OR RECORD~~
24 ~~PERTAINS TO A CHILD WHO:~~

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

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

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

31 ~~(H) ON THE RELEASE OF A REPORT OR RECORD DESCRIBED~~
32 ~~UNDER SUBPARAGRAPH (1) OF THIS PARAGRAPH, THE LOCAL DIRECTOR OR THE~~
33 ~~SECRETARY MAY COMMENT PUBLICLY ON THE REPORT OR RECORD.~~

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

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

(III) SUFFERED A FATALITY OR NEAR FATALITY.

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

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

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

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

9 (c) Before disclosing the information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (2) Notwithstanding Title 4, Subtitle 3 of the Health - General Article, the
16 local director or the Secretary may disclose a medical report related to the cause of the
17 child's injury or death as a result of the alleged abuse or neglect.

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

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

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