
By: **Delegates Pitkin, Conroy, Hubbard, and Rosso**
Introduced and read first time: February 20, 2002
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse - Investigations - Stay of Court Proceedings**

3 FOR the purpose of altering the time period during which certain health
4 practitioners, police officers, educators, and human service workers are required
5 to make a certain written report to a local department of social services;
6 requiring each local department that receives a certain report of suspected child
7 abuse to immediately notify the appropriate law enforcement agency; providing
8 that each local department and law enforcement agency shall ensure that each
9 report of suspected child abuse is thoroughly investigated in accordance with
10 certain cooperative arrangements; requiring each local department and certain
11 law enforcement agencies to enter into certain written cooperative
12 arrangements; establishing a crime for the knowing and willful failure to make
13 a required investigation or report about suspected abuse or neglect; providing
14 for a certain criminal penalty; requiring the court to stay any custody or
15 visitation proceeding in which a local department is investigating a charge of
16 abuse or neglect until the investigation is completed and certain findings made;
17 authorizing the court to stay certain proceedings further when the findings are
18 contested; and generally relating to investigations of child abuse and a stay of
19 court proceedings concerning custody or visitation.

20 BY repealing and reenacting, with amendments,
21 Article - Family Law
22 Section 5-704, 5-706, and 9-101
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2001 Supplement)

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

Article - Family Law

1 5-704.

2 (a) Notwithstanding any other provision of law, including any law on
3 privileged communications, each health practitioner, police officer, educator, or
4 human service worker, acting in a professional capacity:

5 (1) (i) who has reason to believe that a child has been subjected to
6 abuse, shall notify the local department or the appropriate law enforcement agency;
7 or

8 (ii) who has reason to believe that a child has been subjected to
9 neglect, shall notify the local department; and

10 (2) if acting as a staff member of a hospital, public health agency, child
11 care institution, juvenile detention center, school, or similar institution, shall
12 immediately notify and give all information required by this section to the head of the
13 institution or the designee of the head.

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

16 (i) an oral report, by telephone or direct communication, as soon as
17 possible:

18 1. to the local department or appropriate law enforcement
19 agency if the person has reason to believe that the child has been subjected to abuse;
20 or

21 2. to the local department if the person has reason to believe
22 that the child has been subjected to neglect; and

23 (ii) a written report:

24 1. to the local department not later than 48 hours after [the
25 contact, examination, attention, or treatment that caused the individual to believe
26 that the child had been subjected to abuse or neglect] MAKING THE ORAL REPORT;
27 and

28 2. with a copy to the local State's Attorney if the individual
29 has reason to believe that the child has been subjected to abuse.

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

32 (ii) A LOCAL DEPARTMENT THAT RECEIVES A REPORT OF
33 SUSPECTED ABUSE SHALL IMMEDIATELY NOTIFY IN WRITING THE APPROPRIATE
34 LAW ENFORCEMENT AGENCY.
35

1 (III) This paragraph does not prohibit a local department and an
2 appropriate law enforcement agency from agreeing to cooperative arrangements.

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

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

6 (2) the name and home address of the child's parent or other person who
7 is responsible for the child's care;

8 (3) the whereabouts of the child;

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

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

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

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

16 5-706.

17 (a) Promptly after receiving a report of suspected abuse or neglect:

18 (1) IN ACCORDANCE WITH A COOPERATIVE ARRANGEMENT, the local
19 department [or] AND the appropriate law enforcement agency[, or both, if jointly
20 agreed on,] shall [make a thorough investigation of a] ENSURE THAT EACH report of
21 suspected abuse IS THOROUGHLY INVESTIGATED to protect the health, safety, and
22 welfare of the child or children; or

23 (2) the local department shall make a thorough investigation of a report
24 of suspected neglect to protect the health, safety, and welfare of the child or children.

25 (b) Within 24 hours after receiving a report of suspected physical or sexual
26 abuse and within 5 days after receiving a report of suspected neglect or suspected
27 mental injury, the local department or the appropriate law enforcement agency IN
28 ACCORDANCE WITH THEIR COOPERATIVE ARRANGEMENT shall:

29 (1) see the child;

30 (2) attempt to have an on-site interview with the child's caretaker;

31 (3) decide on the safety of the child, wherever the child is, and of other
32 children in the household; and

33 (4) decide on the safety of other children in the care or custody of the
34 alleged abuser.

1 (c) The investigation shall include:

2 (1) a determination of the nature, extent, and cause of the abuse or
3 neglect, if any;

4 (2) if mental injury is suspected, an assessment by two of the following:

5 (i) a licensed physician, as defined in § 14-101 of the Health
6 Occupations Article;

7 (ii) a licensed psychologist, as defined in § 18-101 of the Health
8 Occupations Article; or

9 (iii) a licensed social worker, as defined in § 19-101 of the Health
10 Occupations Article; and

11 (3) if the suspected abuse or neglect is verified:

12 (i) a determination of the identity of the person or persons
13 responsible for the abuse or neglect;

14 (ii) a determination of the name, age, and condition of any other
15 child in the household;

16 (iii) an evaluation of the parents and the home environment;

17 (iv) a determination of any other pertinent facts or matters; and

18 (v) a determination of any needed services.

19 (d) On request by the local department, the local State's Attorney shall assist
20 in the investigation.

21 (e) (1) The local department[,] AND the appropriate law enforcement
22 agencies SHALL ENTER INTO A WRITTEN COOPERATIVE ARRANGEMENT THAT
23 SPECIFIES STANDARD OPERATING PROCEDURES FOR DISCHARGING THEIR JOINT
24 RESPONSIBILITY FOR ENSURING THAT EACH REPORT OF SUSPECTED ABUSE IS
25 THOROUGHLY INVESTIGATED.

26 (2) THE LOCAL DEPARTMENT, the State's Attorney within each county
27 and Baltimore City, the department's office responsible for child care regulation, and
28 the local health officer[,] shall enter into a written agreement that specifies standard
29 operating procedures for the investigation and prosecution of reported cases of
30 suspected abuse.

31 (f) (1) The agencies responsible for investigating reported cases of suspected
32 sexual abuse, including the local department, the appropriate law enforcement
33 agencies, and the local State's Attorney, shall implement a joint investigation
34 procedure for conducting joint investigations of sexual abuse.

35 (2) The joint investigation procedure shall:

- 1 (i) include appropriate techniques for expediting validation of
2 sexual abuse complaints;
- 3 (ii) include investigation techniques designed to:
- 4 1. decrease the potential for physical harm to the child; and
- 5 2. decrease any trauma experienced by the child in the
6 investigation and prosecution of the case; and
- 7 (iii) establish an ongoing training program for personnel involved in
8 the investigation or prosecution of sexual abuse cases.

9 (g) (1) To the extent possible, an investigation under this section shall be
10 completed within 10 days after receipt of the first notice of the suspected abuse or
11 neglect by the local department or law enforcement agencies.

12 (2) An investigation which is not completed within 30 days shall be
13 completed within 60 days of receipt of the first notice of the suspected abuse or
14 neglect.

15 (h) Within 10 days after the local department or law enforcement agency
16 receives the first notice of suspected abuse, the local department or law enforcement
17 agency IN ACCORDANCE WITH THEIR COOPERATIVE ARRANGEMENT shall report to
18 the local State's Attorney the preliminary findings of the investigation.

19 (i) Within 5 business days after completion of the investigation of suspected
20 abuse, the local department and the appropriate law enforcement agency[, if that
21 agency participated in the investigation,] shall make a complete written report of
22 [its] THEIR findings to the local State's Attorney.

23 (J) A PERSON WHO IS REQUIRED TO INVESTIGATE OR MAKE A REPORT ABOUT
24 SUSPECTED ABUSE OR NEGLECT UNDER THIS SECTION AND WHO WILLFULLY AND
25 KNOWINGLY FAILS TO MAKE THE REQUIRED INVESTIGATION OR REPORT IS GUILTY
26 OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
27 \$1,000.

28 9-101.

29 (a) THE COURT SHALL STAY ANY CUSTODY OR VISITATION PROCEEDING
30 THAT INVOLVES AN INVESTIGATION OF ABUSE OR NEGLECT BEING CONDUCTED
31 UNDER TITLE 5, SUBTITLE 7 OF THIS ARTICLE UNTIL THE INVESTIGATION IS
32 COMPLETED AND THE LOCAL DEPARTMENT MAKES ITS FINDING OF INDICATED OR
33 UNSUBSTANTIATED ABUSE. IF AN INDIVIDUAL REQUESTS A CONTESTED CASE
34 HEARING TO APPEAL THE FINDING, THE COURT MAY STAY THE PROCEEDING UNTIL
35 THERE IS A FINAL DISPOSITION OF THE CASE.

36 (B) In any custody or visitation proceeding, if the court has reasonable grounds
37 to believe that a child has been abused or neglected by a party to the proceeding, the

1 court shall determine whether abuse or neglect is likely to occur if custody or
2 visitation rights are granted to the party.

3 [(b)] (C) Unless the court specifically finds that there is no likelihood of
4 further child abuse or neglect by the party, the court shall deny custody or visitation
5 rights to that party, except that the court may approve a supervised visitation
6 arrangement that assures the safety and the physiological, psychological, and
7 emotional well-being of the child.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2002.