

HOUSE BILL 1141

D4, O4

0lr3027
CF SB 948

By: **Delegate Dumais**

Introduced and read first time: February 17, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2010

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – Disclosure of Information**

3 FOR the purpose of requiring a director of a local department of social services or the
4 Secretary of Human Resources to disclose certain information concerning child
5 abuse and neglect under certain circumstances; altering the circumstances
6 under which certain information concerning child abuse and neglect is required
7 to be disclosed; requiring the State's Attorney to notify the local director or the
8 Secretary within a certain period of time after the conclusion of a certain
9 investigation or prosecution under certain circumstances; requiring the local
10 director or the Secretary to make a certain disclosure within a certain period of
11 time after notification by the State's Attorney; repealing a requirement that the
12 Secretary consult with a certain law enforcement agency before disclosing
13 certain information concerning child abuse and neglect; requiring the local
14 director or the Secretary to disclose certain information; prohibiting the local
15 director and the Secretary from disclosing the names of certain individuals; and
16 generally relating to the disclosure of information concerning child abuse and
17 neglect.

18 BY repealing and reenacting, with amendments,

19 Article – Human Services

20 Section 1–203

21 Annotated Code of Maryland

22 (2007 Volume and 2009 Supplement)

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

3 **Article – Human Services**

4 1–203.

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

6 (2) “Local department” means the department of social services that
7 has jurisdiction in the county:

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

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

11 (3) “Local director” means the director of the local department.

12 (4) “Medical report” means a psychological, psychiatric, therapeutic,
13 clinical, or medical report or evaluation related to the allegedly abused or neglected
14 child, a sibling of the child, or another child in the household, family, or care of the
15 alleged abuser or neglector.

16 (5) “Secretary” means the Secretary of Human Resources.

17 (b) (1) Notwithstanding any other provision of law, the local director or
18 the Secretary [may] **SHALL, ON REQUEST**, disclose information concerning child
19 abuse or neglect in accordance with subsection (c) of this section if:

20 (i) [the local director or the Secretary determines that the
21 disclosure is not contrary to the best interests of the child, the child’s siblings, or other
22 children in the household, family, or care of the alleged abuser or neglector] **THE**
23 **INFORMATION IS LIMITED TO ACTIONS OR OMISSIONS OF THE LOCAL**
24 **DEPARTMENT, THE DEPARTMENT OF HUMAN RESOURCES, OR AN AGENT OF**
25 **THE DEPARTMENT OF HUMAN RESOURCES;**

26 (ii) [the alleged abuser or neglector has been charged with a
27 crime related to a report of child abuse or neglect; and

28 (iii)] the child named in a report of abuse or neglect has [died or]
29 suffered a [serious physical injury, as defined in § 3–201 of the Criminal Law Article]
30 **FATALITY OR NEAR FATALITY; AND**

31 **(III) 1. THE LOCAL DIRECTOR OR THE SECRETARY HAS**
32 **CONSULTED THE STATE’S ATTORNEY’S OFFICE; AND**

1 **2. THE STATE'S ATTORNEY'S OFFICE HAS ADVISED**
2 **THE LOCAL DIRECTOR OR THE SECRETARY THAT DISCLOSURE OF THE**
3 **INFORMATION WOULD NOT JEOPARDIZE OR PREJUDICE A RELATED**
4 **INVESTIGATION OR PROSECUTION.**

5 (2) [In determining whether disclosure is contrary to the best interests
6 of the child, the child's siblings, or other children in the household, family, or care of
7 the alleged abuser or neglecter under paragraph (1)(i) of this subsection, the local
8 director or the Secretary shall consider the effect that disclosure may have on the
9 provision of services to the child, the child's household or family members, and any
10 children in the care of the alleged abuser or neglecter.]

11 **(I) IF THE LOCAL DIRECTOR OR THE SECRETARY DOES NOT**
12 **DISCLOSE INFORMATION UNDER PARAGRAPH (1) OF THIS SUBSECTION**
13 **BECAUSE THE STATE'S ATTORNEY HAS ADVISED THAT DISCLOSURE OF THE**
14 **INFORMATION WOULD JEOPARDIZE OR PREJUDICE A RELATED INVESTIGATION**
15 **OR PROSECUTION, THE STATE'S ATTORNEY SHALL NOTIFY THE LOCAL**
16 **DIRECTOR OR THE SECRETARY WITHIN 10 DAYS AFTER THE CONCLUSION OF**
17 **THE RELATED INVESTIGATION OR PROSECUTION.**

18 **(II) WITHIN 30 DAYS AFTER NOTIFICATION FROM THE**
19 **STATE'S ATTORNEY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE**
20 **LOCAL DIRECTOR OR THE SECRETARY SHALL DISCLOSE INFORMATION IN**
21 **ACCORDANCE WITH THIS SECTION.**

22 (c) Before disclosing the information:

23 (1) the local director or the Secretary shall consult the [primary law
24 enforcement agency and the] State's Attorney's office [concerning whether disclosure
25 of the information would jeopardize or prejudice any related investigation or
26 prosecution]; and

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

28 (d) [The] **SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE** local
29 director or the Secretary [may] **SHALL** disclose:

30 (1) the name of the allegedly abused or neglected child **WHO HAS**
31 **SUFFERED A FATALITY ~~OR NEAR FATALITY~~;**

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

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

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

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

8 (6) any prior adjudication as a child in need of assistance of the
9 allegedly abused or neglected child, a sibling of the child, or another child in the
10 household, family, or care of the alleged abuser or neglecter; [and]

11 **(7) THE STATUS OF ANY CASE INVOLVING THE CHILD THAT WAS**
12 **OPEN AT THE TIME OF THE FATALITY OR NEAR FATALITY;**

13 **(8) A SUMMARY OF THE FACTS OF THE FATALITY OR NEAR**
14 **FATALITY, INCLUDING THE DATE OF THE FATALITY OR NEAR FATALITY AND, IN**
15 **THE CASE OF A FATALITY, THE CAUSE OF DEATH REPORTED BY THE MEDICAL**
16 **EXAMINER; AND**

17 **[(7)] (9)** any information concerning the circumstances of the alleged
18 child abuse or neglect and the investigation of the circumstances, if the local director
19 or the Secretary determines that the disclosure is consistent with the public interest.

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

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

23 (ii) disclose the name of a **CHILD WHO HAS SUFFERED A NEAR**
24 **FATALITY, A sibling of the allegedly abused or neglected child, a parent of the**
25 **allegedly abused or neglected child, an individual legally responsible for the child, THE**
26 **ALLEGED ABUSER OR NEGLECTOR, or another household or family member[, other**
27 **than the alleged abuser or neglecter];**

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

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

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

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

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.