

HOUSE BILL 999

E1, D4

2lr1847

By: **Delegates McDermott, Afzali, Aumann, Boteler, DeBoy, Kach, McDonough, and B. Robinson**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Child Abuse and Neglect – Failure to Report**

3 FOR the purpose of establishing that certain persons who are required to provide
4 certain notice or make certain reports of suspected child abuse or neglect may
5 not knowingly fail to give the notice or make the report; establishing the
6 misdemeanor of the knowing failure to report child abuse or neglect; providing
7 certain penalties for a violation of this Act; and generally relating to child abuse
8 and neglect.

9 BY adding to

10 Article – Criminal Law
11 Section 3–602.2
12 Annotated Code of Maryland
13 (2002 Volume and 2011 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Family Law
16 Section 5–704 and 5–705
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2011 Supplement)

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

21 **Article – Criminal Law**

22 **3–602.2.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

11 (3) the whereabouts of the child;

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

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

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

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

19 5-705.

20 (a) (1) Except as provided in paragraphs (2) and (3) of this subsection,
21 notwithstanding any other provision of law, including a law on privileged
22 communications, a person in this State other than a health practitioner, police officer,
23 or educator or human service worker who has reason to believe that a child has been
24 subjected to abuse or neglect shall notify the local department or the appropriate law
25 enforcement agency.

26 (2) A person is not required to provide notice under paragraph (1) of
27 this subsection:

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

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

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

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

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

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

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

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

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2012.