

SENATE BILL 140

E1, D4

2lr0916

By: **Senators Jacobs, Currie, Glassman, McFadden, Reilly, Stone, and Young**
Introduced and read first time: January 18, 2012
Assigned to: Judicial Proceedings

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.**

23 **(A) A PERSON WHO IS REQUIRED TO PROVIDE NOTICE OF SUSPECTED**
24 **ABUSE OR NEGLECT OF A CHILD OR MAKE A WRITTEN REPORT OF SUSPECTED**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 ABUSE OR NEGLECT OF A CHILD UNDER § 5-704 OF THE FAMILY LAW ARTICLE
2 MAY NOT KNOWINGLY FAIL TO PROVIDE THE REQUIRED NOTICE OR MAKE THE
3 REQUIRED WRITTEN REPORT.

4 (B) A PERSON WHO IS REQUIRED TO PROVIDE A REPORT OF SUSPECTED
5 ABUSE OR NEGLECT OF A CHILD UNDER § 5-705 OF THE FAMILY LAW ARTICLE
6 MAY NOT KNOWINGLY FAIL TO PROVIDE THE REQUIRED REPORT.

7 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
8 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
9 \$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

10 **Article – Family Law**

11 5-704.

12 (a) Notwithstanding any other provision of law, including any law on
13 privileged communications, each health practitioner, police officer, educator, or human
14 service worker, acting in a professional capacity in this State:

15 (1) who has reason to believe that a child has been subjected to abuse
16 or neglect, shall notify the local department or the appropriate law enforcement
17 agency; and

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

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

24 (i) an oral report, by telephone or direct communication, as
25 soon as possible to the local department or appropriate law enforcement agency; and

26 (ii) a written report:

27 1. to the local department not later than 48 hours after
28 the contact, examination, attention, or treatment that caused the individual to believe
29 that the child had been subjected to abuse or neglect; and

30 2. with a copy to the local State's Attorney.

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

1 (ii) 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
7 who 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 5-705.

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

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

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

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

30 (iii) in violation of any constitutional right to assistance of
31 counsel.

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

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

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

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

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

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

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

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

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