

SENATE BILL 571

D4

5lr0366
CF 5lr1604

By: **Senators Kelley, Benson, McFadden, Montgomery, Nathan-Pulliam, and Young**

Introduced and read first time: February 6, 2015

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Failure to Report – Penalties and Training**

3 FOR the purpose of making it a civil offense, subject to certain penalties, for a certain
4 person acting in a professional capacity to fail to report child abuse under certain
5 circumstances; making it a misdemeanor, subject to certain penalties, for a certain
6 person acting in a professional capacity to fail to report child abuse under certain
7 circumstances; authorizing a police officer to issue a citation for a certain civil
8 violation under this Act; establishing that adjudication of a certain first-time civil
9 violation is not a criminal conviction and does not impose certain civil disabilities;
10 requiring the Department of Human Resources, in consultation with other
11 stakeholders, to develop and make available to the public in a certain manner
12 training on the identification and reporting of child abuse and neglect; requiring the
13 Department to provide to certain organizations an opportunity to provide certain
14 input regarding the development of the training; requiring the Department to make
15 the training available to the public on or before a certain date; providing for the
16 effective dates of this Act; and generally relating to child abuse and neglect.

17 BY adding to

18 Article – Criminal Law

19 Section 3–601.2

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2014 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Family Law

24 Section 5–704

25 Annotated Code of Maryland

26 (2012 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Law**

4 **3–601.2.**

5 (A) (1) A PERSON WHO IS REQUIRED TO REPORT CHILD ABUSE UNDER §
6 5–704 OF THE FAMILY LAW ARTICLE MAY NOT KNOWINGLY AND WILLFULLY FAIL TO
7 REPORT CHILD ABUSE AS REQUIRED UNDER § 5–704 OF THE FAMILY LAW ARTICLE.

8 (2) A PERSON WHO IS REQUIRED TO REPORT CHILD ABUSE UNDER §
9 5–704 OF THE FAMILY LAW ARTICLE MAY NOT KNOWINGLY AND WILLFULLY FAIL TO
10 REPORT CHILD ABUSE AS REQUIRED UNDER § 5–704 OF THE FAMILY LAW ARTICLE
11 IF:

12 (I) 1. THE PERSON WITNESSES THE ABUSE; AND

13 2. THE PERSON KNOWS THAT THE ABUSE IS LIKELY TO
14 CAUSE OR HAS CAUSED SERIOUS PHYSICAL INJURY OR DEATH TO A CHILD; OR

15 (II) THE PERSON WITNESSES SEXUAL ABUSE, AS DEFINED IN §
16 5–701 OF THE FAMILY LAW ARTICLE.

17 (B) (1) A PERSON WHO VIOLATES SUBSECTION (A)(1) OF THIS SECTION:

18 (I) FOR A FIRST VIOLATION, HAS COMMITTED A CIVIL OFFENSE
19 AND IS SUBJECT TO:

20 1. A CIVIL FINE NOT EXCEEDING \$250; AND

21 2. A REQUIREMENT TO COMPLETE THE TRAINING
22 DEVELOPED BY THE DEPARTMENT OF HUMAN RESOURCES UNDER § 5–704 OF THE
23 FAMILY LAW ARTICLE; AND

24 (II) FOR A SECOND OR SUBSEQUENT VIOLATION, IS GUILTY OF A
25 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
26 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.

27 (2) A PERSON WHO VIOLATES SUBSECTION (A)(2) OF THIS SECTION IS
28 GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT
29 NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

1 **(C) THIS SECTION APPLIES ONLY IF THE FAILURE TO REPORT CHILD ABUSE**
2 **OCCURS DURING THE TIME THE CHILD IS A MINOR.**

3 **(D) (1) A POLICE OFFICER MAY ISSUE A CITATION FOR A FIRST-TIME**
4 **VIOLATION OF SUBSECTION (A)(1) OF THIS SECTION.**

5 **(2) ADJUDICATION OF A FIRST-TIME VIOLATION OF SUBSECTION**
6 **(A)(1) OF THIS SECTION:**

7 **(I) IS NOT A CRIMINAL CONVICTION FOR ANY PURPOSE; AND**

8 **(II) DOES NOT IMPOSE ANY OF THE CIVIL DISABILITIES THAT**
9 **MAY RESULT FROM A CRIMINAL CONVICTION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
11 as follows:

12 **Article – Family Law**

13 5–704.

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

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

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

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

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

27 (ii) a written report:

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

31 2. with a copy to the local State’s Attorney.

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

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

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

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

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

10 (3) the whereabouts of the child;

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

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

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

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

17 **(D) (1) THE DEPARTMENT OF HUMAN RESOURCES, IN CONSULTATION**
18 **WITH OTHER STAKEHOLDERS, AS APPROPRIATE, SHALL DEVELOP TRAINING ON THE**
19 **IDENTIFICATION AND REPORTING OF ABUSE AND NEGLECT.**

20 **(2) THE DEPARTMENT OF HUMAN RESOURCES SHALL PROVIDE TO**
21 **ORGANIZATIONS REPRESENTING HEALTH PRACTITIONERS, POLICE OFFICERS,**
22 **EDUCATORS, AND HUMAN SERVICE WORKERS AN OPPORTUNITY TO PROVIDE INPUT**
23 **SPECIFIC TO THOSE PROFESSIONS REGARDING THE DEVELOPMENT OF THE**
24 **TRAINING.**

25 **(3) THE DEPARTMENT OF HUMAN RESOURCES SHALL MAKE THE**
26 **TRAINING AVAILABLE AT NO COST TO THE PUBLIC IN PERSON AND ONLINE.**

27 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Human
28 Resources shall make the training on the identification and reporting of child abuse and
29 neglect, required under Section 2 of this Act, available to the public in person and online
30 on or before January 1, 2016.

1 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
2 effect July 1, 2016.

3 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
4 4 of this Act, this Act shall take effect October 1, 2015.