

SENATE BILL 135

E1, D4
SB 140/12 – JPR

7lr1190

By: **Senator Lee**

Introduced and read first time: January 16, 2017

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 certain
4 notice or make certain reports of suspected child abuse or neglect may not knowingly
5 fail to give the notice or make the report; establishing the misdemeanor of the
6 knowing failure to report child abuse or neglect; providing certain penalties for a
7 violation of this Act; and generally relating to child abuse and neglect.

8 BY adding to

9 Article – Criminal Law

10 Section 3–602.2

11 Annotated Code of Maryland

12 (2012 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – Family Law

15 Section 5–704 and 5–705

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2016 Supplement)

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

20 **Article – Criminal Law**

21 **3–602.2.**

22 (A) A PERSON WHO IS REQUIRED TO PROVIDE NOTICE OF SUSPECTED
23 ABUSE OR NEGLECT OF A CHILD OR MAKE A WRITTEN REPORT OF SUSPECTED ABUSE
24 OR NEGLECT OF A CHILD UNDER § 5–704 OF THE FAMILY LAW ARTICLE MAY NOT

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 KNOWINGLY FAIL TO PROVIDE THE REQUIRED NOTICE OR MAKE THE REQUIRED
2 WRITTEN REPORT.

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

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

9 Article – Family Law

10 5-704.

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

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

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

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

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

24 (ii) a written report:

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

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

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

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

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

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

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

(3) the whereabouts of the child;

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

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

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

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

5-705.

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

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

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

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

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

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

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

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

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

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

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2017.