

HOUSE BILL 1321

D4
HB 955/15 – JUD

7lr3097
CF 7lr3115

By: **Delegate Valentino-Smith**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 15, 2017

CHAPTER _____

1 AN ACT concerning

2 **Child Protection – Reporting Requirements – Threat of Harm**

3 FOR the purpose of ~~requiring a certain individual acting in a professional capacity to notify~~
4 ~~the local department of social services or the appropriate law enforcement agency if~~
5 ~~the individual has reason to believe that a verbal threat of a substantial risk of~~
6 ~~imminent harm to a child has been made; prohibiting a person from preventing or~~
7 ~~interfering with the making of a report under this Act; providing certain immunity~~
8 ~~to a person who participates in certain activities relating to a report made under this~~
9 ~~Act; making conforming changes; and generally relating to child abuse and neglect~~
10 ~~and requiring the reporting of threats of harm to a child~~ authorizing an individual
11 to notify the local department of social services or the appropriate law enforcement
12 agency if the individual has reason to believe that a verbal threat of imminent severe
13 bodily harm or death to a child has been made by a certain individual and that the
14 child is at substantial risk of child abuse; specifying certain procedures and
15 requirements for a report concerning a certain verbal threat of harm to a child;
16 authorizing the local department or law enforcement agency to receive a report
17 concerning a certain verbal threat of harm to a child; requiring the law enforcement
18 agency to immediately refer the report to the local department under certain
19 circumstances; requiring the Secretary of Human Resources to adopt certain
20 regulations; requiring the local department to make a thorough investigation to
21 protect the health, safety, and welfare of any child who may be at substantial risk of
22 abuse under certain circumstances; requiring the local department to conduct a
23 certain investigation jointly with the appropriate law enforcement agency;
24 authorizing the local department to decline to make an investigation of a certain
25 subsequent report under certain circumstances; requiring the local department and

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.



the appropriate law enforcement agency to take certain actions; providing certain immunity to a person who participates in certain activities relating to a report made under this Act; making stylistic changes; and generally relating to child protection.

BY repealing and reenacting, with amendments,

Article – Family Law

Section ~~5-704, 5-705.2(a), and 5-708~~ 5-704.1, 5-706.2, and 5-708

Annotated Code of Maryland

(2012 Replacement Volume and 2016 Supplement)

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

Article – Family Law

~~5-704.~~

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

~~(1) [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 IF THE PERSON HAS REASON TO BELIEVE THAT:~~

~~(I) A CHILD HAS BEEN SUBJECTED TO ABUSE OR NEGLECT; OR~~

~~(II) A VERBAL THREAT OF A SUBSTANTIAL RISK OF IMMINENT HARM TO A CHILD HAS BEEN MADE; and~~

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

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

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

~~(ii) a written report:~~

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

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

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

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

~~(e) 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] OR THREAT OF HARM TO the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect OR THREATS OF HARM; and~~

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

~~(i) the cause of the suspected abuse or neglect OR THREAT OF HARM; and~~

~~(ii) the identity of any individual responsible for the abuse or neglect OR THREAT OF HARM.~~

~~5-705.2.~~

~~(a) An individual may not intentionally prevent or interfere with the making of a report of suspected abuse or neglect OR THREAT OF HARM required by § 5-704 or § 5-705.1(e)(2) of this subtitle.~~

5-704.1.

(a) An individual may notify the local department or the appropriate law enforcement agency if:

(1) the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who:

1 [(1)] (I) is registered under Title 11, Subtitle 7 of the Criminal Procedure
2 Article based on the commission of an offense against a child; and

3 [(2)] (II) based on additional information, poses a substantial risk of
4 sexual abuse to the child; OR

5 **(2) THE INDIVIDUAL HAS REASON TO BELIEVE THAT:**

6 **(I) A VERBAL THREAT OF IMMINENT SEVERE BODILY HARM OR**
7 **DEATH TO A CHILD HAS BEEN MADE BY THE CHILD'S PARENT OR OTHER PERSON**
8 **WHO HAS PERMANENT OR TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR**
9 **SUPERVISION OF THE CHILD; AND**

10 **(II) THE CHILD IS AT SUBSTANTIAL RISK OF ABUSE.**

11 (b) (1) A report under subsection (a) of this section may be oral or in writing.

12 (2) If acting as a staff member of a hospital, public health agency, child
13 care institution, juvenile detention center, school, or similar institution, an individual who
14 notifies the appropriate authorities under subsection (a) of this section immediately shall
15 notify and give all of the information required by this section to the head of the institution
16 or the designee of the head of the institution.

17 (c) To the extent reasonably possible, an individual who makes a report under
18 this section shall include in the report the following information:

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

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

22 (3) the whereabouts of the child;

23 (4) **FOR A REPORT UNDER SUBSECTION (A)(1) OF THIS SECTION, the**
24 **nature and extent of the substantial risk of sexual abuse of the child, including any evidence**
25 **or information available to the reporter concerning possible previous instances of sexual**
26 **abuse; [and]**

27 (5) **FOR A REPORT UNDER SUBSECTION (A)(2) OF THIS SECTION, THE**
28 **NATURE AND EXTENT OF THE SUBSTANTIAL RISK OF ABUSE OF THE CHILD,**
29 **INCLUDING ANY EVIDENCE OR INFORMATION AVAILABLE TO THE REPORTER**
30 **CONCERNING POSSIBLE PREVIOUS INSTANCES OF ABUSE; AND**

31 **[(5)] (6) any other information that would help to determine:**

(i) the cause of the substantial risk of sexual abuse UNDER SUBSECTION (A)(1) OF THIS SECTION OR THE SUBSTANTIAL RISK OF ABUSE UNDER SUBSECTION (A)(2) OF THIS SECTION; and

(ii) the identity of any individual responsible for the substantial risk of sexual abuse UNDER SUBSECTION (A)(1) OF THIS SECTION OR THE SUBSTANTIAL RISK OF ABUSE UNDER SUBSECTION (A)(2) OF THIS SECTION.

5-706.2.

(a) (1) A local department or a law enforcement agency may receive a report:

(I) under [§ 5-704.1] § 5-704.1(A)(1) of this subtitle that a child is at substantial risk of sexual abuse; OR

(II) UNDER § 5-704.1(A)(2) OF THIS SUBTITLE THAT A CHILD IS AT SUBSTANTIAL RISK OF ABUSE.

(2) If a law enforcement agency receives the report, the law enforcement agency shall immediately refer the report to the local department.

(3) The Secretary of Human Resources shall adopt regulations governing:

(i) how staff in a local department should elicit information when receiving a report under § 5-704.1 of this subtitle; and

(ii) the definition of substantial risk of sexual abuse OR SUBSTANTIAL RISK OF ABUSE as used in this subtitle.

(b) (1) Except as provided in paragraph (3) of this subsection, after confirming that the allegations in the report regarding the individual's history are accurate and that there is specific information that the child is at substantial risk of sexual abuse OR SUBSTANTIAL RISK OF ABUSE, the local department shall make a thorough investigation to protect the health, safety, and welfare of any child or children who may be at substantial risk of sexual abuse OR SUBSTANTIAL RISK OF ABUSE.

(2) The local department shall conduct the investigation jointly with an appropriate law enforcement agency.

(3) If a subsequent report is received [regarding an individual with a history of sexual abuse] that alleges substantially the same facts as a report UNDER § 5-104.1 OF THIS SUBTITLE that the local department has previously investigated, the local department may decline to make an investigation of the subsequent report.

(c) Within 5 days after receiving the report, the local department and the appropriate law enforcement agency shall:

(1) see the child in person;

(2) **(I) FOR A REPORT UNDER § 5-704.1(A)(1) OF THIS SUBTITLE, attempt to have an on-site interview with the child's caregiver and the individual identified in the report as an individual registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; AND**

(II) FOR A REPORT UNDER § 5-704.1(A)(2) OF THIS SUBTITLE, ATTEMPT TO HAVE AN ON-SITE INTERVIEW WITH THE INDIVIDUAL ALLEGED TO HAVE MADE THE THREAT OF HARM TO THE CHILD;

(3) decide on the safety OF and level of risk to the child, wherever the child is, and [of] other children in the household; and

(4) **(I) FOR A REPORT UNDER § 5-704.1(A)(1) OF THIS SUBTITLE, decide on the safety OF and level of risk [of] TO other children in the care or custody of the individual identified in the report as an individual registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; AND**

(II) FOR A REPORT UNDER § 5-704.1(A)(2) OF THIS SUBTITLE, DECIDE ON THE SAFETY OF AND LEVEL OF RISK TO OTHER CHILDREN IN THE CARE OR CUSTODY OF THE INDIVIDUAL ALLEGED TO HAVE MADE THE THREAT OF HARM TO THE CHILD.

(d) To the extent possible, an investigation under this section shall be completed as soon as practicable but not later than 30 days after receipt of the report.

(e) As part of the investigation, the local department shall:

(1) determine whether the child is safe;

(2) determine whether ABUSE OR sexual abuse of the child has occurred;

(3) if appropriate, offer services to the family; and

(4) immediately decide whether to file a petition alleging that the child is in need of assistance.

5-708.

Any person who makes or participates in making a report of abuse or neglect ~~OR THREAT OF HARM~~ under § 5-704, § 5-705, or § 5-705.1 of this subtitle or a report of

1 substantial risk of sexual abuse **OR SUBSTANTIAL RISK OF ABUSE** under § 5–704.1 of this
2 subtitle or participates in an investigation or a resulting judicial proceeding shall have the
3 immunity described under § 5–620 of the Courts and Judicial Proceedings Article from civil
4 liability or criminal penalty.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.