

SENATE BILL 631

D4, O4
HB 1246/22 – JUD

3lr2158

By: **Senator James**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Reports and Records – Disclosure**

3 FOR the purpose of providing that certain reports and records of child abuse and neglect
4 are not confidential; and generally relating to the confidentiality of reports and
5 records of child abuse and neglect.

6 BY repealing and reenacting, with amendments,
7 Article – Human Services
8 Section 1–203
9 Annotated Code of Maryland
10 (2019 Replacement Volume and 2022 Supplement)

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

13 **Article – Human Services**

14 1–203.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Local department” means the department of social services that has
17 jurisdiction in the county:

18 (i) where the allegedly abused or neglected child lives; or

19 (ii) if different, where the abuse or neglect is alleged to have taken
20 place.

21 (3) “Local director” means the director of the local department.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(4) “Medical report” means a psychological, psychiatric, therapeutic, clinical, or medical report or evaluation related to the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser or neglecter.

(5) “Secretary” means the Secretary of Human Services.

(b) (1) [Notwithstanding] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AND NOTWITHSTANDING** any other provision of law, the local director or the Secretary shall, [on] **WITHIN 30 DAYS AFTER RECEIVING A** request, disclose information concerning child abuse or neglect in accordance with subsection (c) of this section if:

(i) the information is limited to actions or omissions of the local department, the Department of Human Services, or an agent of the Department of Human Services;

(ii) the child named in a report of abuse or neglect has suffered a fatality or near fatality; and

(iii) [1.] the local director or the Secretary [has consulted the State’s Attorney’s office; and

2. the State’s Attorney’s office] has **BEEN** advised [the local director or the Secretary] **BY THE STATE’S ATTORNEY’S OFFICE** that disclosure of the information would not jeopardize or prejudice a related investigation or prosecution.

(2) (I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A REPORT OR RECORD OF CHILD ABUSE OR NEGLECT IS NOT CONFIDENTIAL AND IS SUBJECT TO SUBSECTION (D) OF THIS SECTION IF THE REPORT OR RECORD PERTAINS TO A CHILD WHO:

1. SUFFERED A FATALITY OR NEAR FATALITY;

2. WAS IN THE CUSTODY OF A STATE DEPARTMENT OR AGENCY OR IN THE CARE OF A FOSTER PARENT AT THE TIME THE CHILD SUFFERED A FATALITY OR NEAR FATALITY; AND

3. IS THE SUBJECT OF AN INVESTIGATION, A REPORT, A REFERRAL, OR A COMPLAINT RECEIVED BY A LOCAL DEPARTMENT.

(II) ON THE RELEASE OF A REPORT OR RECORD DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE LOCAL DIRECTOR OR THE SECRETARY MAY COMMENT PUBLICLY ON THE REPORT OR RECORD.

1 **[(2)] (3)** (i) If the local director or the Secretary does not disclose
2 information under paragraph (1) of this subsection because the State's Attorney has
3 advised that disclosure of the information would jeopardize or prejudice a related
4 investigation or prosecution, the State's Attorney shall notify the local director or the
5 Secretary within 10 days after the conclusion of the related investigation or prosecution.

6 (ii) Within 30 days after notification from the State's Attorney under
7 subparagraph (i) of this paragraph, the local director or the Secretary shall disclose
8 information in accordance with this section.

9 (c) Before disclosing the information:

10 (1) the local director or the Secretary shall consult the State's Attorney's
11 office; and

12 (2) the local director and the Secretary shall consult each other.

13 (d) Subject to subsection (e) of this section, the local director or the Secretary shall
14 disclose:

15 (1) the name of the allegedly abused or neglected child who has suffered a
16 fatality;

17 (2) the date of the report of the alleged child abuse or neglect and of any
18 prior or subsequent reports;

19 (3) the findings made by the local department at the conclusion of its
20 investigation and the disposition made by the local department based on its findings;

21 (4) any services provided to the alleged abuser or neglecter, the allegedly
22 abused or neglected child, and the household or family members;

23 (5) the number of referrals for professional services for the alleged abuser
24 or neglecter, the allegedly abused or neglected child, and the household or family members;

25 (6) any prior adjudication as a child in need of assistance of the allegedly
26 abused or neglected child, a sibling of the child, or another child in the household, family,
27 or care of the alleged abuser or neglecter;

28 (7) the status of any case involving the child that was open at the time of
29 the fatality or near fatality;

30 (8) a summary of the facts of the fatality or near fatality, including the date
31 of the fatality or near fatality and, in the case of a fatality, the cause of death reported by
32 the medical examiner; and

(9) any information concerning the circumstances of the alleged child abuse or neglect and the investigation of the circumstances, if the local director or the Secretary determines that the disclosure is consistent with the public interest.

(e) (1) The local director or the Secretary may not:

(i) disclose the identity of or provide an identifying description of the person who made the report;

(ii) disclose the name of a child who has suffered a near fatality, a sibling of the allegedly abused or neglected child, a parent of the allegedly abused or neglected child, an individual legally responsible for the child, the alleged abuser or neglecter, or another household or family member;

(iii) except as provided in paragraph (2) of this subsection, disclose a medical report; or

(iv) except for the information described in subsection (d) of this section, disclose the file relating to the allegedly abused or neglected child.

(2) Notwithstanding Title 4, Subtitle 3 of the Health – General Article, the local director or the Secretary may disclose a medical report related to the cause of the child's injury or death as a result of the alleged abuse or neglect.

(f) In consultation with the local directors, the Secretary shall develop a form for disclosure of the information described in subsection (d) of this section.

(g) This section does not grant a right to any person to receive the information described in subsection (d) of this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.