

HOUSE BILL 1197

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7lr2676
CF SB 797

By: **Delegates McComas, Clippinger, Cluster, Lierman, Moon, and Parrott**

Introduced and read first time: February 9, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Reporting – Definitions**

3 FOR the purpose of altering the definitions of “educator or human service worker” and
4 “health practitioner” in provisions of law relating to the reporting of child abuse and
5 neglect; defining the terms “mandated reporter” and “youth-serving organization”
6 in provisions of law relating to the reporting of child abuse and neglect; making
7 certain conforming changes; and generally relating to child abuse and neglect.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 5–701, 5–704(a), and 5–705(a)
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2016 Supplement)

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

15 **Article – Family Law**

16 5–701.

17 (a) Except as otherwise provided in § 5–705.1 of this subtitle, in this subtitle the
18 following words have the meanings indicated.

19 (b) “Abuse” means:

20 (1) the physical or mental injury of a child by any parent or other person
21 who has permanent or temporary care or custody or responsibility for supervision of a child,
22 or by any household or family member, under circumstances that indicate that the child’s
23 health or welfare is harmed or at substantial risk of being harmed; or

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2) sexual abuse of a child, whether physical injuries are sustained or not.

(c) “Administration” means the Social Services Administration of the Department.

(d) “Centralized confidential database” means the Department’s confidential computerized data system that contains information regarding child abuse and neglect investigations and assessments.

(e) “Child” means any individual under the age of 18 years.

(g) (1) “Educator or human service worker” means any professional employee of any correctional, public, parochial or private educational, health, juvenile service, social or social service agency, institution, or licensed facility.

(2) “Educator or human service worker” includes:

(i) any teacher, **TEACHER’S AIDE OR ASSISTANT, SCHOOL COUNSELOR OR GUIDANCE COUNSELOR, OR SCHOOL OFFICIAL OR ADMINISTRATOR;**

(ii) any **LICENSED OR UNLICENSED MARRIAGE, FAMILY, OR INDIVIDUAL** counselor;

(iii) any social worker;

(iv) any caseworker; and

(v) any probation or parole officer.

(h) “Family member” means a relative by blood, adoption, or marriage of a child.

(i) **[(1)]** “Health practitioner” includes any person who is authorized to practice healing under the Health Occupations Article or § 13–516 of the Education Article.

[(2) “Health practitioner” does not include an emergency medical dispatcher.]

(j) “Household” means the location:

(1) in which the child resides;

(2) where the abuse or neglect is alleged to have taken place; or

(3) where the person suspected of abuse or neglect resides.

(k) “Household member” means a person who lives with, or is a regular presence in, a home of a child at the time of the alleged abuse or neglect.

(m) “Indicated” means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur.

(n) (1) “Law enforcement agency” means a State, county, or municipal police department, bureau, or agency.

(2) “Law enforcement agency” includes:

(i) a State, county, or municipal police department or agency;

(ii) a sheriff’s office;

(iii) a State’s Attorney’s office; and

(iv) the Attorney General’s office.

(o) Except as provided in §§ 5–705.1 and 5–714 of this subtitle, “local department” means the local department that has jurisdiction in the county:

(1) where the allegedly abused or neglected child lives; or

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

(p) “Local department case file” means that component of the Department’s confidential computerized database that contains information regarding child abuse and neglect investigations to which access is limited to the local department staff responsible for the investigation.

(q) “Local State’s Attorney” means the State’s Attorney for the county:

(1) where the allegedly abused or neglected child lives; or

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

(R) “MANDATED REPORTER” MEANS ANY OF THE FOLLOWING INDIVIDUALS, ACTING IN A PROFESSIONAL CAPACITY, WHO ARE REQUIRED TO REPORT SUSPECTED ABUSE OR NEGLECT UNDER § 5–704 OF THIS SUBTITLE:

(1) A HEALTH PRACTITIONER;

(2) A LAW ENFORCEMENT OFFICER;

(3) AN EDUCATOR OR A HUMAN SERVICE WORKER;

(4) A CHILD CARE WORKER OR AN ADMINISTRATOR;

(5) A FOSTER PARENT; OR

(6) AN INDIVIDUAL EMPLOYED BY A YOUTH-SERVING ORGANIZATION.

[(r)] (S) “Mental injury” means the observable, identifiable, and substantial impairment of a child’s mental or psychological ability to function.

[(s)] (T) “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

(1) that the child’s health or welfare is harmed or placed at substantial risk of harm; or

(2) mental injury to the child or a substantial risk of mental injury.

[(t)] (U) “Police officer” means any State or local officer who is authorized to make arrests as part of the officer’s official duty.

[(u)] (V) “Record” means the original or any copy of any documentary material, in any form, including a report of suspected child abuse or neglect, that is made by, received by, or received from the State, a county, or a municipal corporation in the State, or any subdivision or agency concerning a case of alleged child abuse or neglect.

[(v)] (W) “Report” means an allegation of abuse or neglect, made or received under this subtitle.

[(w)] (X) “Ruled out” means a finding that abuse, neglect, or sexual abuse did not occur.

[(x)] (Y) (1) “Sexual abuse” means any act that involves sexual molestation or exploitation of a child by a parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member.

(2) “Sexual abuse” includes:

(i) allowing or encouraging a child to engage in:

1. obscene photography, films, poses, or similar activity;

(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] **MANDATED REPORTER** 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:

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

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

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