

# HOUSE BILL 1067

D4, E1, D3

2lr2203  
CF SB 63

---

By: **Delegates McComas, Afzali, Bates, Cluster, DeBoy, Eckardt, Elliott, Frank, Frick, George, Glass, Glenn, Haddaway-Riccio, Howard, Jameson, A. Kelly, Kipke, Krebs, Love, McDermott, McDonough, A. Miller, Nathan-Pulliam, Norman, B. Robinson, Sophocleus, Stocksdale, and Washington**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Child Abuse and Neglect – Failure to Provide Notice or Report – Civil**  
3 **Liability and Criminal Penalty**

4 FOR the purpose of expanding immunity from civil liability or criminal penalty to a  
5 person who provides or participates in providing notice of child abuse or neglect  
6 to the appropriate authorities; adding a medical examiner and a parole or  
7 probation agent to the list of individuals who are specifically required to notify  
8 the appropriate authorities and make a certain report in a certain manner if the  
9 individual, acting in a professional capacity in this State, has reason to believe a  
10 child has been subjected to abuse or neglect; making it a misdemeanor, subject  
11 to a certain penalty, for certain health practitioners, police officers, educators,  
12 parole and probation agents, and human service workers to knowingly fail to  
13 provide a certain notice or make a certain report of suspected child abuse or  
14 neglect under certain circumstances; requiring the Office of the Chief Medical  
15 Examiner to send an autopsy report to certain officials if the office finds a death  
16 investigated by the office was caused by or related to child abuse or neglect;  
17 establishing that an individual who is specifically required to provide a certain  
18 notice or make a certain report who knowingly fails to provide the notice or  
19 make the report may be held civilly liable for damages arising from the failure  
20 to provide the notice or make the report; and generally relating to reporting  
21 child abuse and neglect.

22 BY repealing and reenacting, with amendments,  
23 Article – Courts and Judicial Proceedings  
24 Section 5–620  
25 Annotated Code of Maryland  
26 (2006 Replacement Volume and 2011 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Family Law  
3 Section 5–704  
4 Annotated Code of Maryland  
5 (2006 Replacement Volume and 2011 Supplement)  
6 (As enacted by Chapter 635 of the Acts of the General Assembly of 1987)

7 BY repealing and reenacting, with amendments,  
8 Article – Family Law  
9 Section 5–708  
10 Annotated Code of Maryland  
11 (2006 Replacement Volume and 2011 Supplement)

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

14 **Article – Courts and Judicial Proceedings**

15 5–620.

16 Any person who in good faith **PROVIDES OR PARTICIPATES IN PROVIDING**  
17 **NOTICE OF ABUSE OR NEGLECT UNDER § 5–704(A) OR WHO** makes or participates  
18 in making a report of abuse or neglect under [§ 5–704] **§ 5–704(B)**, § 5–705, or  
19 § 5–705.1 of the Family Law Article or participates in an investigation or a resulting  
20 judicial proceeding is immune from any civil liability or criminal penalty that would  
21 otherwise result from making or participating in a report of abuse or neglect or  
22 participating in an investigation or a resulting judicial proceeding.

23 **Article – Family Law**

24 5–704.

25 (a) Notwithstanding any other provision of law, including any law on  
26 privileged communications, each health practitioner, police officer, **MEDICAL**  
27 **EXAMINER, PAROLE AND PROBATION AGENT**, educator, or human service worker,  
28 acting in a professional capacity in this State:

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

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

1           (b) (1) [An] **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
2 **SUBSECTION, AN** individual who notifies the appropriate authorities under  
3 subsection (a) of this section shall make:

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

6                           (ii) a written report:

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

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

11                   (2) **IF THE OFFICE OF THE CHIEF MEDICAL EXAMINER FINDS**  
12 **THAT A DEATH INVESTIGATED BY THE OFFICE WAS CAUSED BY OR RELATED TO**  
13 **CHILD ABUSE OR NEGLECT, THE OFFICE SHALL SEND A COPY OF THE AUTOPSY**  
14 **REPORT TO THE LOCAL DEPARTMENT AND APPROPRIATE LAW ENFORCEMENT**  
15 **AGENCY.**

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

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

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

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

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

26                           (3) the whereabouts of the child;

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

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

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

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

3 (D) AN INDIVIDUAL WHO IS REQUIRED TO PROVIDE NOTICE UNDER  
4 SUBSECTION (A) OF THIS SECTION OR MAKE A REPORT UNDER SUBSECTION (B)  
5 OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE REQUIRED  
6 NOTICE OR MAKE THE REQUIRED REPORT IS GUILTY OF A MISDEMEANOR AND  
7 ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.

8 (E) AN INDIVIDUAL WHO IS REQUIRED TO PROVIDE NOTICE UNDER  
9 SUBSECTION (A) OF THIS SECTION OR MAKE A REPORT UNDER SUBSECTION (B)  
10 OF THIS SECTION AND WHO KNOWINGLY FAILS TO PROVIDE THE REQUIRED  
11 NOTICE OR MAKE THE REQUIRED REPORT MAY BE HELD CIVILLY LIABLE FOR  
12 DAMAGES ARISING FROM THE FAILURE TO PROVIDE NOTICE OR MAKE THE  
13 REPORT.

14 5-708.

15 Any person who PROVIDES OR PARTICIPATES IN PROVIDING NOTICE OF  
16 ABUSE OR NEGLECT UNDER § 5-704(A) OR WHO makes or participates in making a  
17 report of abuse or neglect under [§ 5-704] § 5-704(B), § 5-705, or § 5-705.1 of this  
18 subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle  
19 or participates in an investigation or a resulting judicial proceeding shall have the  
20 immunity described under § 5-620 of the Courts and Judicial Proceedings Article from  
21 civil liability or criminal penalty.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2012.