

IN THE  
APPELLATE COURT OF MARYLAND

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No. 1550  
September Term, 2022

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CSA-REG-1550-2022

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ELISE MONROE ET AL.,  
Appellants/Cross-Appellees,

v.

UNIVERSITY OF MARYLAND MEDICAL CENTER LCC, ET AL.,

Appellees/Cross-Appellants.

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Appeal from the Circuit Court for Baltimore City  
(Hon. Shannon E. Avery, Hon. Christopher Panos)

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**BRIEF FOR AMICUS CURIAE CHILD JUSTICE, INC.**

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## INTEREST OF AMICUS CURIAE

Amicus curiae is Child Justice, Inc.<sup>1</sup> Amicus respectfully submits this brief upon motion pursuant to Maryland Rule 8-511(a)(5).

## STATEMENT OF FACTS

Amicus hereby refers to and incorporates the Statement of Facts from Appellees'/Cross-Appellants' opening brief.

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<sup>1</sup> Child Justice, Inc. is a national organization that advocates for the safety, dignity, and selfhood of abused, neglected, and at-risk children. The mission of Child Justice is to protect and serve the rights of children in cases where child sexual abuse, physical abuse, or domestic violence are present. It works with local, state, and national advocates, legal and mental health professionals, and child welfare experts to defend the interests of affected children. It provides public policy recommendations, legal services, community service referrals, court-watching services, research, and education. Child Justice also serves important public interests by securing *pro bono* representation for protective parents in financial distress and by seeking appropriate judicial solutions to the threats faced by abused, neglected, and at-risk children.

Child Justice is an approved legal services provider for low-income individuals as identified by the *Maryland Legal Services Corporation*. See <https://bit.ly/3B41UGE>.

## ARGUMENT

The prevention and mitigation of child abuse is of the utmost importance in Maryland. In fact, *all* “person[s]<sup>2</sup> in this State”<sup>3</sup> are under an affirmative duty to make a report whenever they suspect child abuse or neglect has happened. In addition to casting as wide a net as practically possible, the reporting statutes also provide that members of certain professions will be *sanctioned* if they fail to report suspected child abuse or neglect: Health Practitioners,<sup>4</sup> Educators, Human Service Workers, and Police Officers.<sup>5</sup> These reports are mandatory even if abuse or neglect is merely suspected or the mandated reporter “has reason to believe” it has occurred, and definitive proof is missing.<sup>6</sup>

The initial mandated report shall be oral and made to the police or to the local Department of Social Services/Child Protective Services

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<sup>2</sup> Not including certain exceptions not relevant here, such as members of the clergy and attorneys. See Md. Code Ann., Fam. Law 5-705 (a)(2) and (3).

<sup>3</sup> Md. Code Ann., Fam. Law 5-705 (a)(1).

<sup>4</sup> As was so in the case below.

<sup>5</sup> Md. Code Ann., Fam. Law 5-704.

<sup>6</sup> Md. Code Ann., Fam. Law 5-701(a).

(hereinafter, collectively referred to as “CPS”).<sup>7</sup> Within 48 hours the mandated reporter must follow up in writing to CPS and the local States’ Attorney.<sup>8</sup> And *any* reporter “who in good faith makes or participates in making a report of abuse or neglect under” the relevant statutes “is immune from any civil liability or criminal penalty[.]”<sup>9</sup>

Reliance on reports from third-party reporters (*i.e.*, reporters other than the child’s parents) is an integral part of the child-protection system. While we can find no Maryland-specific statistics that break down child-abuse and -neglect reports by reporter, nationally mandated and third-party reporters make up just over 50% of reports: “In 2019 [the most recent numbers available, and an important benchmark as it was the most recent year prior to the Covid-19 pandemic], the largest sources of child abuse and neglect reports were education (21 percent of reports); legal and law enforcement (19.1 percent); and medical personnel (11 percent).”<sup>10</sup>

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<sup>7</sup> Md. Code Ann., Fam. Law 5-704 (b)(1)(i).

<sup>8</sup> Md. Code Ann., Fam. Law 5-704 (b)(1)(ii).

<sup>9</sup> Md. Code Ann., Cts. & Jud. Proc. § 5-620.

<sup>10</sup> U.S. Gen. Accounting Office, GAO-21-483, *Child Welfare: Pandemic Posed Challenges, but also Created Opportunities for Agencies to* [continued]

This 51.1% figure may well be *conservative* for Maryland when considering that reports of abuse and neglect fell nearly 70%<sup>11</sup> during the first weeks of the statewide Covid-19 shutdown due to the “shuttering [of] kids in their homes and away from the watchful eyes of teachers, health care workers and extended family.”<sup>12</sup>

The absolute need for these extra, “watchful eyes” cannot be overstated; they are irreducible in helping protect children from parental abuse or neglect. Indeed, mandated reporters are especially needed in those instances where the child is the subject of a custody proceeding. In Child Justice’s experience, the non-abusing parent is quite often not believed when reporting abuse (in particular, child-sexual abuse) to CPS.<sup>13</sup> In addition, reporting to CPS often is used against the reporting

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*Enhance Future Operations* 9 n.21 (2021), available at <https://www.gao.gov/assets/gao-21-483.pdf>.

<sup>11</sup> Yvonne Wenger and Alison Knezevich, *Reports of Child Abuse Have Fallen in Maryland*, Baltimore Sun (Apr. 25, 2020) (“Across Maryland, Child Protective Services offices received nearly 70% fewer calls during the first two weeks in April compared to the same period last year.”), available at <https://www.baltimoresun.com/coronavirus/bs-md-child-abuse-coronavirus-20200425-m7o5quse7jexfpg3vjwax6ooxq-story.html>.

<sup>12</sup> *Id.*

<sup>13</sup> See, e.g., Goldstein, B., & Liu, E., *Cases Involving Child Protective Agencies*, 12(3) Fam. & Intimate Ptnr. Violence Q. 27, 31 (2020) (“Once allegations of parental alienation or coaching or brainwashing have been [continued]



parent in the custody court, offered as pseudoscientific evidence of so-called “parental alienation.”<sup>14</sup> Finally, protective parents who report abuse are often themselves subject to “bad-faith” lawsuits filed by the abuser if the abuse or neglect is ultimately not “Indicated” by CPS.<sup>15</sup>

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raised by the abusive father, his victim’s allegations of abuse are often treated by CPS as inherently untrustworthy or invalid.”) and 34 (“Commentators have noted that child protection agencies regularly fail to adequately investigate abuse allegations, particularly when they are raised in the context of custody litigation, based in part on inaccurate beliefs about the rate of false allegations in such litigation.”); Milchman, Madelyn, *Oversimplified Beliefs About Alienation Rebuttals of Child Abuse Allegations—Practice Issues*. 19 J. of Fam. Trauma, Child Cust. & Child Dev. 1, 8 (2022) (“CPS caseworkers may minimize the likelihood of abuse or CSA [child-sexual abuse] in their case decisions because they attribute the allegations to divorce stresses[.]”).

<sup>14</sup> See Milchmann, *Oversimplified Beliefs About Alienation Rebuttals of Child Abuse Allegations—Practice Issues*, at 5 (“Many behaviors cited as examples of alienation . . . could just as logically be interpreted as examples of abuse. A parent’s insistent efforts to bring abuse allegations to the attention of the family court or CPS, . . . could just as logically be interpreted as attempts to get help and protect the child.”); and Johnston, J. R., Lee, S., Olesen, N. W., & Walters, M. G., *Allegations and Substantiations of Abuse in Custody-disputing Families*. Fam. Ct. Rev., 43(2), 283–294 (2005) (“[S]ome clinicians and fathers’ advocates have embraced Parental Alienation Syndrome (PAS), a theory that implies that false allegations of abuse are widespread, especially by embittered divorced mothers who are engaged in a systematic campaign to malign and destroy the credibility of their ex-spouse in order to win custody of their children in court.”) (cleaned up).

<sup>15</sup> See Md. Code Ann., Fam. Law § 5-701(m) (“‘Indicated’ means a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur.”); see also Md. Code Ann., [continued]

Under these circumstances it is no surprise that some parents refrain from reporting suspected abuse lest they be harmed (and significantly so) by doing so. This is why it is crucial that third parties—neighbors, the parents of the child’s friends, school and medical personnel, coaches, and scout leaders—be able to report any suspected abuse or neglect without fear of reprisal.<sup>16</sup>

One case in which Child Justice is involved is illustrative. In that case, the protective parent (hereinafter “Mother”) had reported suspected child-sexual abuse to CPS after her daughters disclosed sexual abuse by their Father, only to have the reports Ruled Out, partially due to the parents engaging in a child-custody case.

Father then engaged in a pattern of intimidation against Mother, threatening to “bury her” in legal fees. Indeed, he convinced Mother to

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Fam. Law § 5-701(w) (“‘Ruled out’ means a finding that abuse, neglect, or sexual abuse did not occur.”); and Md. Code Ann., Fam. Law § 5-701 (aa) (“‘Unsubstantiated’ means a finding that there is an insufficient amount of evidence to support a finding of indicated or ruled out.”).

<sup>16</sup> While reports to CPS are required to be confidential – *see* COMAR Sec. 07.02.07.21. “Confidentiality — CPS Responses to Child Abuse or Neglect” at H(1) – that is not always the case. Indeed, Child Justice has been involved in at least one custody case where CPS erroneously produced – subject to a subpoena by one of the parties – unredacted documents that included the names of the reporters. Thereby informing the allegedly abusive parent of who it was that reported him.

enter into a stipulated custody order that purported to prohibit her from contacting CPS unless the custody court affirmatively allowed her to do so (to say nothing about the fact that Mother is required by statute to report any suspected abuse).<sup>17</sup> At the same time, Father sued Mother claiming *inter alia* that she engaged in bad-faith reporting of child-sexual abuse to CPS.

Later, one of the children disclosed more sexual abuse to a mandated reporter, who in turn reported it to CPS as required. CPS conducted a more thorough investigation and made a finding of Indicated child-sexual abuse. A police investigation followed and Father eventually pleaded guilty to child-sexual abuse and is now prohibited from having contact with the children.

This tragic case had an ending that resulted in the safety of the children but that happened only because a conscientious mandated reporter did what the law required and reported the abuse. This is why allowing cases like the one below to proceed past a motion to dismiss are harmful: even if the reporter is vindicated in the end after discovery, and

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<sup>17</sup> Child Justice did not represent Mother in that action, and submits that such an order is or should be void as against public policy.

his report is deemed to have been in good faith, he must still go through the terribly costly—both financial and emotional—process of defending himself in a suit.

## CONCLUSION

We respectfully submit that it would be substantially helpful for this Court to recall the language of *Lloyd v. Supervisors of Elections*,<sup>18</sup> in which the now-Supreme Court noted circumstances under which the decision of issues potentially moot as to the parties are appropriate:

(T)he better considered and reasoned cases take the view that only where the urgency of establishing a rule of future conduct in matters of important public concern is imperative and manifest, will there be justified a departure from the general rule and practice of not deciding academic questions. They hold that if the public interest clearly will be hurt if the question is not immediately decided, if the matter involved is likely to recur frequently, and its recurrence will involve a relationship between government and its citizens, or a duty of government, and upon any recurrence, the same difficulty which prevented the appeal at hand from being heard in time is likely again to prevent a decision, then the Court may find justification for deciding the issues raised by a question which has become moot, particularly if all these factors concur with sufficient weight.<sup>19</sup>

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<sup>18</sup> 206 Md. 36 (1954).

<sup>19</sup> *Lloyd*, 206 Md. at 43. See also *Reyes v. Prince George's Cnty.*, 281 Md. 279, 301 n.18 (1977) (quoting *Lloyd*).

Here, Appellees already suffered “damages” that cannot or are unlikely to be remunerated, such as being forced to engage in discovery and litigating the merits of a supposed bad-faith report to a fact-finder (and, eventually, winning). But given that virtually *every* resident of Maryland is required to report abuse and neglect, this issue “is likely to recur frequently” and “a rule of future conduct in [this] matter[] of important public concern is imperative and manifest,”<sup>20</sup> this Court is more than justified in ruling on the issues related to supposed bad-faith reporting

Therefore, this Court should not only reject Appellants’ request to reverse the finding below, it should take the important step of instructing our trial courts to proceed most cautiously and skeptically when a party alleges bad-faith reporting of child abuse or neglect. Our children’s welfare depends on it.

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<sup>20</sup> *Lloyd*, 206 Md. at 43.

Respectfully submitted.

**CHILD JUSTICE, INC.**

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**CERTIFICATION OF WORD COUNT  
AND COMPLIANCE WITH RULE 8-112**

1. This brief contains 1,965 words, excluding the parts of the brief exempted from the word count by Rule 8-503.
2. This brief complies with the font, spacing, and type size requirements stated in Rule 8-112.

/s/ David R. Dorey  
David R. Dorey

This brief was prepared using Century Schoolbook, a proportionally spaced type, at 13-point font.





## TEXT OF RULES AND REGULATIONS

### COMAR SEC. 07.02.07.21

**A.** Except as otherwise provided in Family Law Article, Title 5, Subtitle 7, and Human Services Article, §§ 1-201--1-203, Annotated Code of Maryland, and §§ B--D of this regulation:

(1) Records and reports, including the information in the records or reports, concerning child abuse or neglect and the information contained in them are confidential; and

(2) The unauthorized disclosure of records and reports concerning child abuse or neglect and the information contained in them is a criminal offense subject to the penalty set out in Human Services Article, § 1-202.(e), Annotated Code of Maryland.

**B.** A local department shall disclose a record or report, or information in a record or report, concerning a CPS response:

(1) To a court:

(a) Ruling on a request for shelter care, foster care, or a protective order;

(b) Ruling in a CINA case or on a petition for guardianship with a right to consent to adoption of the child; or

(c) Ordering disclosure;

(2) Under an order of an administrative law judge if:

(a) A record or report concerns a case pending before the Office of Administrative Hearings; and

(b) Provision is made to comply with other State or federal confidentiality laws;

(3) To the State Council on Child Abuse and Neglect, the State Citizens Review Board of Children, or their designees, or a child fatality review team, as necessary to carry out their official functions;

(4) On written request, to the Baltimore City Health Departments Office of Youth Violence Prevention if the record or report:

(a) Is relevant to the provision of the treatment or care of an alleged victim;

(b) Concerns a child convicted of a crime or adjudicated delinquent for an act that caused a fatality or near fatality;  
or

- (c) Concerns a child victim of a crime of violence, as defined in Criminal Law Article, § 14-101., Annotated Code of Maryland, residing in Baltimore City, and is requested for the purpose of developing appropriate programs and policies aimed at reducing violence against children in Baltimore City;
- (5) To the Division of Parole and Probation in the Department of Public Safety and Correctional Services if, as a result of a report of suspected child abuse or neglect, the local department has reason to believe that an individual who lives with or is in the regular presence of a child is registered under Criminal Procedure Article, Title 11, Subtitle 7, Annotated Code of Maryland, as a result of committing a sexual crime against a child;
- (6) To a health care practitioner, or agency, institution, or program treating or caring for an alleged victim if the information or record is relevant to the treatment or care limited to the following:

  - (a) Information regarding the alleged victims condition and well-being;
  - (b) Information regarding the alleged victims medical and mental health and developmental needs;
  - (c) The name of health care practitioners identified in the record who have treated or cared for the alleged victim; and
  - (d) Other information that the local department determines may be useful including:

    - (i) The status of immunizations;
    - (ii) Current medications; or
    - (iii) The names of any individuals whose legal access to the alleged victim has been restricted; and
- (7) Upon request, to the State Medical Director for Children Receiving Child Welfare Services and all personnel under the direct supervision of State Medical Director as necessary to execute the duties of the position.

C. In response to a written request pursuant to Human Services Article, § 1-203., Annotated Code of Maryland, concerning an alleged victim who has suffered a fatality or near fatality:

- (1) The Secretary of the Department or the director of a local department, or their designees, shall consult with the States

Attorney in the jurisdiction where the fatality or near fatality occurred to determine whether release of information pursuant to § C(3) of this regulation would jeopardize or prejudice a criminal investigation or prosecution;

**(2)** If the States Attorney concludes that:

**(a)** Release of information pursuant to § C(3) of this regulation will jeopardize or prejudice a criminal investigation or prosecution, the States Attorney shall promptly advise the Department or local department and, within 10 days of the conclusion of the investigation or prosecution, advise the Department or local department that information may be released; or

**(b)** Release of information pursuant to § C(3) of this regulation will not jeopardize or prejudice a criminal investigation prosecution, the States Attorney shall promptly advise the Department or local department;

**(3)** Within 30 days of receiving notice pursuant to § C(2)(b) of this regulation or being advised that an ongoing investigation or prosecution has concluded, the Secretary of the Department and the director of the local department, or their designees, shall release the following information if it reasonably relates to the actions or omissions of the Department or local department:

**(a)** The name of a child who suffered a fatality;

**(b)** The dates of CPS responses involving the alleged victim including the date of the report of the fatality or near fatality;

**(c)** The final determination in a current or prior investigation involving the alleged victim;

**(d)** The number and type of services or service referrals provided to the alleged maltreater, the alleged victim, or household or family members of the alleged victim;

**(e)** CINA adjudications of the alleged victim, the alleged victims siblings, children in the alleged victims household or family, and children in the care of the alleged maltreater;

**(f)** The status of any CPS response involving the alleged victim that was open at the time of the fatality or near fatality;



**(6)** The appropriate public school superintendent or principal, or equivalent employee of a nonpublic school holding a State certificate of approval or registration with the Maryland State Department of Education, or a nonpublic school under the jurisdiction of the superintendent of schools for the Archdiocese of Baltimore, the Archdiocese of Washington, or the Catholic Diocese of Wilmington, for the purpose of carrying out appropriate personnel or administrative actions following a report of suspected child abuse involving a student committed by:

- (a)** An employee in that school or school system;
- (b)** An independent contractor who supervises or works directly with students in that school or school system; or
- (c)** An employee of an independent contractor, including a bus driver or bus assistant, who supervises or works directly with students in that school or school system;

**(7)** The president of a Maryland public institution of higher education, as defined in Education Article, Title 10, Subtitle 1, Annotated Code of Maryland, or the Chancellor of the University System of Maryland to carry out appropriate personnel or administrative actions following a report of child abuse committed by:

- (a)** An employee of the institution who has on-campus contact with children; or
- (b)** A contractor, employee of a contractor or volunteer who has on-campus contact with children at the institution; and

**(8)** The Office of Child Care:

**(a)** For disclosure to an operator of a child care center that is required to be licensed or to hold a letter of compliance under Family Law Article, Title 5, Subtitle 5, Part VII, Annotated Code of Maryland, or to a family day care provider who is required to be registered under Family Law Article, Title 5, Subtitle 5, Part V, Annotated Code of Maryland, for the purpose of:

- (i)** Determining the suitability of an individual for employment in a child care center or family day care home; or
- (ii)** Carrying out appropriate personnel actions following a report of suspected child abuse or neglect when the alleged maltreater is an employee of a child

care center or family day care home and, the alleged victim was under the care of the child care center or family day care provider at the time of the alleged maltreatment; or

**(b)** For use in any administrative or judicial enforcement proceedings.

**(9)** A qualified addictions specialist as defined in Family Law Article, Title 5, Subtitle 12, Annotated Code of Maryland;

**(10)** The Juvenile Justice Monitoring Unit of the Office of the Attorney General; or

**(11)** A licensed practitioner of a hospital or birthing center for the purpose of making discharge decisions concerning a child when, based on the practitioner's observation or knowledge of the behavior of the child's parents or immediate family members, the practitioner has reason to believe that the child will be in danger after discharge limited to:

**(a)** A statement as to whether either parent of the child under the practitioners care has been found responsible for indicated child abuse or neglect; and

**(b)** A statement as to whether either parent of the child under the practitioners care has an open CPS response.

**E.** With any record or report disclosed to a person other than a mandated reporter pursuant to § D of this regulation, the local department shall provide written notice that redisclosure is subject to the requirements and penalties of Human Services Article, § 1-202., Annotated Code of Maryland.

**F.** Disclosure by Consent.

**(1)** Waiver.

**(a)** A local department may disclose a record or report, or information in a record or report, concerning a CPS response if all individuals with a privacy interest in the records or information have waived their confidentiality interest in accordance with COMAR 07.01.07.05.

**(b)** A parent, guardian, or custodian may waive a child's right to confidentiality for purposes of § F(1)(a) of this regulation only if the parent, guardian or custodian is not alleged to have abused or neglected the child.

**(2)** Employment Background Checks Indicated Finding.

**(a)** If an individual requires a background check for the purposes of working or volunteering with children, a local department may notify a designated person whether the individual has been identified in a final determination as responsible for indicated child abuse or neglect if the local department receives on a form developed by the Administration:

**(i)** A notarized request from the individual needing the background check stating that the individual will be or is working or volunteering with children;

**(ii)** A request signed by the individual needing the background check with a verification of that individual's identity by the person designated to receive the results of the background check stating that the individual will be or is working or volunteering with children; or

**(iii)** Other reliable verification of the individual's identity from a source approved by the Administration and a statement by the individual needing the background clearance that the individual will be or is working or volunteering with children.

**(b)** With the request under § F(2)(a) of this regulation or by a subsequent request meeting the requirements of § F(2)(a) of this regulation, after a local department has notified a designated party that an individual has been found responsible for indicated child abuse or neglect, the individual may authorize the local department to release to the designated person a brief written summary of the facts resulting in the indicated.

**(c)** In responding to a request pursuant to § F(2)(a) and (b) of this regulation, the local department may not:

**(i)** Identify an individual other than the requestor who was involved in the indicated maltreatment;

**(ii)** Disclose information about an individual who has not been identified as responsible for indicated child abuse or neglect in a centralized confidential database;

**(iii)** Disclose information about a finding that is not the subject of a final determination.

**(d)** When a local department receives a request pursuant to § F(2)(a) concerning an individual with a finding of indicated child abuse or neglect who has not been offered an opportunity to request a contested case hearing, the local department shall:

**(i)** Provide the individual with appeal rights pursuant to Family Law Article, § 5-706.1, Annotated Code of Maryland; and

**(ii)** Wait for a final determination before responding to the request for information.

**(3)** Alternative Response Records. The local department may not use or disclose records and reports, including information in those records and reports, related to an alternative response to respond to a request made pursuant to § F(2)(a) and (b) of this regulation.

**G.** Disclosures in a Child's Best Interest. Except as provided in § B of this regulation, when making the decision to disclose records or reports, or information in those records and reports in accordance with this regulation, the local department:

**(1)** Shall consider whether disclosure is in the best interests of children identified in the record; and

**(2)** May withhold information if disclosure is contrary to a child's best interest.

**H.** Identification of Reporting Source.

**(1)** In making a disclosure under this regulation, a local department shall protect the identity of the reporter and of an individual whose life or safety is likely to be endangered by disclosure.

**(2)** The local department shall not disclose the identity of the individual who reported suspected child abuse or neglect unless:

**(a)** The reporter is a mandated reporter who has given written permission to the local department to make the disclosure; or

**(b)** In a court proceeding:

**(i)** The court has unequivocally ordered the local department to disclose the identity of the reporter;

**(ii)** The local department has advised the court if it believes that the disclosure of the identity of the



reporter is not necessary for a determination of an issue before the court; and

(iii) The local department has requested that disclosure of the identification of the reporter be confined to the parties and not further disclosed.

I. The Department may publicize or distribute demographic and statistical data for research purposes if the data does not identify particular individuals or cases.

#### **MD. CODE ANN., CTS. & JUD. PROC. §5-620**

Any person who in good faith makes or participates in making a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of the Family Law Article or participates in an investigation or a resulting judicial proceeding is immune from any civil liability or criminal penalty that would otherwise result from making or participating in a report of abuse or neglect or participating in an investigation or a resulting judicial proceeding.

#### **MD. CODE ANN., FAM. LAW §5-701**

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

(b)

(1) “Abuse” means:

(i) the physical or mental injury of a child under circumstances that indicate that the child’s health or welfare is harmed or at substantial risk of being harmed by:

1. a parent;
2. a household member or family member;
3. a person who has permanent or temporary care or custody of the child;
4. a person who has responsibility for supervision of the child; or
5. a person who, because of the person’s position or occupation, exercises authority over the child; or

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

- (2) “Abuse” does not include the physical injury of a child by accidental means.
- (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.
- (f) Repealed by Acts 2005, ch. 464, § 2, effective January 1, 2006.
- (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;
  - (ii) any 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.
- (l) Repealed by ch. 245, Acts 2015, effective October 1, 2015.
- (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)** “Mental injury” means the observable, identifiable, and substantial impairment of a child’s mental or psychological ability to function caused by an intentional act or series of acts, regardless of whether there was an intent to harm the child.

**(s)** “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)** “Police officer” means any State or local officer who is authorized to make arrests as part of the officer’s official duty.

- (u)** “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)** “Report” means an allegation of abuse or neglect, made or received under this subtitle.
- (w)** “Ruled out” means a finding that abuse, neglect, or sexual abuse did not occur.
- (x)** “Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a child for the purpose of a commercial sex act.
- (y)** “Sexual abuse” means any act that involves:
- (1)** Sexual molestation or exploitation of a child by:
    - (i)** a parent;
    - (ii)** a household member or family member;
    - (iii)** a person who has permanent or temporary care or custody of the child;
    - (iv)** a person who has responsibility for supervision of the child; or
    - (v)** a person who, because of the person’s position or occupation, exercises authority over the child; or
  - (2)** sex trafficking of a child by any individual.
- (z)** “Sexual molestation or exploitation” includes:
- (1)** allowing or encouraging a child to engage in:
    - (i)** obscene photography, films, poses, or similar activity;
    - (ii)** pornographic photography, films, poses, or similar activity; or
    - (iii)** prostitution;
  - (2)** incest;
  - (3)** rape;
  - (4)** sexual offense in any degree; and
  - (5)** unnatural or perverted sexual practices.
- (aa)** “Unsubstantiated” means a finding that there is an insufficient amount of evidence to support a finding of indicated or ruled out.

**MD. CODE ANN., FAM. 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 who has reason to believe that a child has been subjected to abuse or neglect:

**(1)** shall notify the local department or the appropriate law enforcement agency; 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 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.

**(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.

**MD. CODE ANN., FAM. LAW §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:

- (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.

**(b)**

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

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

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

**(d)**

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

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

## CERTIFICATE OF SERVICE

I hereby certify that on this 5<sup>th</sup> day of June 2023, I caused the foregoing to be served by MDEC, and two copies hand delivered on the 6th day of June to:

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/s/ David R. Dorey  
David R. Dorey