

EXHIBIT MONTGOMERY COUNTY PUBLIC SCHOOLS

Child Abuse and Neglect (State Law)

5-701. Definitions

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(b) Abuse means:

- (1) the sustaining of physical injury by a child as a result of cruel or inhumane treatment or as a result of a malicious act by any parent or other person who has the permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or threatened thereby;
- (2) sexual abuse of a child, whether physical injuries are sustained or not.

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

(d) Child means any individual under the age of 18 years.

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(f) (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.
- (g) Family member means a relative by blood, adoption, or marriage of a child.
- (h) Health practitioner includes any person who is authorized to practice healing under the Health Occupation Article.
- (i) 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.
- (j) 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.
- (k) (1) Law enforcement agency means a State, county, or municipal police department, bureau, or agency.
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- (l) Local department means the department of social services 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.
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- (n) Neglect means the sustaining by a child of significant physical or mental harm or injury from:
- (1) the absence of the child's parents, guardians or custodian; or
 - (2) the failure of the child's parents, guardian, or custodian to give proper care and attention to the child and the child's problems under circumstances that indicate that the child's health or welfare is harmed or threatened thereby, unless the failure

5-704. Reporting of abuse or neglect By health practitioner, police officer, educator or human service worker.

- (a) In general. Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, or educator or human service worker, acting in a professional capacity, who has reason to believe that a child has been subjected to:
- (1) (i) Abuse, shall notify the local department or the appropriate law enforcement agency; or
 - (ii) neglect, shall notify the local department; and
 - (2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, immediately notify and give all information required by this section to the head of the institution or the designee of the head.
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- (c) Oral and written reports; cooperation among departments and agencies.
- (1) An individual who notifies the appropriate authorities under subsection (n) of this section shall make:
 - (i) an oral report, by telephone or direct communication, as soon as possible:
 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 if the individual has reason to believe that the child has been subjected to abuse.
 - (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 if the individual has reason to believe that the child has been subjected to abuse.
- (2) (i) An agency to which an oral report of suspected abuse 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.
- (d) Contents of report 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.

5-705. Same By other persons.

- (a) In general. Notwithstanding any other provision of law, including any law on privileged communications, a person 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:
 - (1) (i) if the person has reason to believe the child has been subjected to abuse, notify the local department or the appropriate law enforcement agency; or

- (ii) if the person has reason to believe the child has been subjected to neglect, notify the local department.
- (b) Notification of other agency; cooperative agreements.
 - (1) An agency to which a report of suspected abuse 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) Form of report. A report made under subsection (a) of this section may be oral or in writing.
- (d) Contents of report.
 - (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.

5-707. Reports and records.

- (a) Confidentiality. Subject to federal and State law, the Administration shall provide by regulation:
 - (1) procedures for protecting the confidentiality of reports and records made in accordance with this subtitle; and
 - (2) conditions under which information may be released.
- (b) Expungement. The local department shall expunge a report of suspected abuse or neglect 5 years after the date of the report if:
 - (1) the investigation under 5-706 this subtitle concludes that the report is unsubstantiated; and
 - (2) no further reports of abuse or neglect are received during the 5 years.

5-708. Immunity of person making report.

Any person who in good faith makes or participates in making a report of abuse or neglect under 5-704 or 5-705 of this subtitle 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.

Source: The Annotated Code of Maryland, Family Law, Title 5, Subtitle 7, Sections 5-701, 702, 704, 705, 707, and 708, effective date July 1, 1988.

MCPS Exhibit History: Revised November 1988.