

MD Code, Family Law, § 5-704



West's Annotated Code of Maryland [Currentness](#)

Family Law ([Refs & Annos](#))

[Title 5](#). Children

[Subtitle 7](#). Child Abuse and Neglect ([Refs & Annos](#))

**→§ 5-704. Child abuse reports; particular persons**

(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:

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

(ii) who has reason to believe that a child has been subjected to 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, 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:

1. to the local department or appropriate law enforcement agency if the person has reason to believe that the child has been subjected to abuse; or

2. to the local department if the person has reason to believe that the child has been subjected to neglect; 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 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.

(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;

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- (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.

#### CREDIT(S)

Acts 1987, c. 635, § 2; Acts 1989, c. 730, §§ 1, 2; Acts 1997, c. 367, § 1, eff. Oct. 1, 1997; Acts 1997, c. 368, § 1, eff. Oct. 1, 1997; Acts 1998, c. 21, § 1, eff. April 14, 1998; Acts 2000, c. 61, § 1, eff. April 25, 2000. Amended by [Acts 2003, c. 308, § 1, eff. Oct. 1, 2003](#).

#### HISTORICAL AND STATUTORY NOTES

##### 1997 Legislation

Acts 1997, c. 367, § 2 and Acts 1997, c. 368, § 2, provide:

"That this Act is contingent on the inclusion in the operating budget of \$1,700,000 for drug abuse treatment for mothers of children born drug exposed."

##### 2000 Legislation

Acts 2000, c. 61, § 1, made technical corrections to the Code.

##### 2003 Legislation

Acts 2003, c. 308, § 1, in subsec. (a), in the introductory paragraph, inserted "in this State".

#### CROSS REFERENCES

Chiropractors, licensing, failure to report suspected child abuse, see [Health Occupations, § 3-5A-09](#).

Nurses, failure to report suspected child abuse, see [Health Occupations, § 8-316](#).

Optometrists, failure to report suspected child abuse, see [Health Occupations, § 11-313](#).

Physicians, failure to report suspected child abuse, see [Health Occupations, § 14-404](#).

Police Training Commission, failure to report suspected child abuse, see [Public Safety, § 3-212](#).

Reporters of child abuse, immunity from liability, see [Courts and Judicial Proceedings, § 5-620](#).

Report of child abuse, family day care home, see [Family Law, § 5-556](#).

Reports of abuse or neglect, immunity of reporter, see [Family Law, § 5-708](#).

Reports of child abuse, child care center, see [Family Law, § 5-584](#).

Respiratory care practitioners, failure to report suspected child abuse, discipline of licensee, see [Health](#)

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[Occupations, § 14-5A-17.](#)

Social workers, failure to report suspected child abuse, see [Health Occupations, § 19-311.](#)

Teachers and other educational personnel, failure to report suspected child abuse, suspension or dismissal, see [Education, § 6-202.](#)

#### ADMINISTRATIVE CODE REFERENCES

Department of Health and Mental Hygiene

Housing, certification for youth camps, see [COMAR 10.16.06.01](#) et seq.

Department of Human Resources

Social Services Administration, In-Home Family Services, see [COMAR 07.02.01.01](#) et seq.

State Board of Education

Nonpublic schools, educational programs in nonpublic schools and child care centers, see [COMAR 13A.09.09.01](#) et seq.

#### LAW REVIEW AND JOURNAL COMMENTARIES

Juvenile Court: The Guardian of Children. Honorable Ellen L. Hollander, 27 Md. B.J. 9 (May/June 1994).

#### LIBRARY REFERENCES

Infants  13.5(1).

Westlaw Key Number Search: 211k13.5(1).

#### RESEARCH REFERENCES

##### Encyclopedias

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

[Maryland Law Encyclopedia Infants and Minors § 11](#), Reporting of Child Abuse and Neglect.

[Maryland Law Encyclopedia Infants and Minors § 13](#), Immunity.

#### UNITED STATES SUPREME COURT

##### Child abuse,

*Reporting,*

Due process, state duty to protect child from parental abuse, see [DeShaney v. Winnebago County Dept. of Social Services, U.S.Wis.1989, 109 S.Ct. 998, 489 U.S. 189, 103 L.Ed.2d 249.](#)

#### NOTES OF DECISIONS

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[1/2](#). Construction with other law

The statutory social worker--client privilege must yield, with respect to a social worker's mental health treatment records for a client, to the Board of Social Work Examiners' statutory power to issue subpoenas for the purpose of investigating allegations that a social worker licensed by the Board committed serious violation of her professional duties by failing to report a client's suspected child abuse or neglect. [Jane Doe v. Maryland Bd. of Social Work Examiners, 2004, 862 A.2d 996, 384 Md. 161](#). Witnesses  214.5

[1](#). Equal protection

Protecting confidentiality of reporters of child abuse or neglect and granting civil immunity to reporter for good-faith report had rational basis to legitimate state purpose, and, therefore, statutes so providing did not deny equal protection to parents who sought to require county social services department to disclose identity of reporter of parents' alleged child neglect. [Code 1957, Art. 88A, § 6\(b\)](#); Code, Family Law, § § 5-704(c), [5-708](#); [42 U.S.C.A. § 1983](#); [U.S.C.A. Const.Amends. 5, 14. Freed v. Worcester County Dept. of Social Services, 1986, 518 A.2d 159, 69 Md.App. 447](#), certiorari denied [522 A.2d 392, 309 Md. 47](#), appeal dismissed [108 S.Ct. 49, 484 U.S. 804, 98 L.Ed.2d 14](#). Constitutional Law  225.1; Witnesses  216(1)

[2](#). Necessity for report

If there is reason to believe that a child has been subjected to child abuse by a teacher, the school system should not notify the parents, since the local department or law enforcement agency is responsible for doing so. 82 Op.Atty.Gen. No. 97-023, Sept. 19, 1997.

Apart from the exceptions set out in § 5-705, a person has an affirmative and unqualified obligation to report suspected child abuse. 80 Op.Atty.Gen. No. 95-032, Aug. 4, 1995.

§ 5-704 and [5-705](#) require a report whenever there is reason to believe that child abuse or neglect occurred in the past, even if the alleged abuser is believed to be deceased. 78 Op.Atty.Gen. No. 93-049, Dec. 3, 1993.

§ 5-704 and [5-705](#) require **reporting** whenever there is reason to believe that **child abuse** or neglect occurred in the past, even if the alleged victim is an adult when the incident comes to light. 78 Op.Atty.Gen. No. 93-049, Dec. 3, 1993.

[3](#). Contents of report generally

Information that an alleged abuser is deceased should be included in reports of past child abuse or neglect, and the authorities receiving the reports may take appropriate account of that circumstance. 78 Op.Atty.Gen. No. 93-049, Dec. 3, 1993.

[4](#). Risk of significant harm

Attacks by gangs indicate at the very least a "risk" of "significant harm," within meaning of statute defining "abuse," for purposes of another statute mandating educators and others to report suspected abuse or neglect, as physical injury under circumstances that indicate child's welfare is significantly harmed or at risk of being significantly harmed. [Code, Family Law, § § 5-701\(b\)](#), 5-704(a, b). [Bleich v. Florence Crittenton Services of Baltimore, Inc., 1993, 632 A.2d 463, 98 Md.App. 123](#). Infants  13

[5](#). Protection from reprisals

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Merely because teacher at licensed residential care facility did not parrot statutory language in **reporting** suspected **child abuse** or neglect, make initial oral report, or provide all of the required information in her letter to state licensing authorities, did not mean that she was not invoking or fulfilling statutory duties of educator in making report and, thus, that teacher was not protected from reprisal for making report. Code, Family Law, § 5-704(c). [Bleich v. Florence Crittenton Services of Baltimore, Inc., 1993, 632 A.2d 463, 98 Md.App. 123.](#) Infants  13.5(2)

Allegations by discharged teacher that her letter to state licensing specialist regarding safety at licensed residential child care facility constituted report of abuse or neglect, and that she was fired for sending that letter, were sufficient to state cause of action for wrongful discharge in violation of public policy found in statutes and regulations dealing with protection of children from abuse and requiring that suspected abuse or neglect be reported to state authorities. [Code, Family Law, § § 5-502\(b\), 5-702\(1\), 5-704\(a\).](#) [Bleich v. Florence Crittenton Services of Baltimore, Inc., 1993, 632 A.2d 463, 98 Md.App. 123.](#) Infants  13.5(2)

#### 6. Privileged communications

Express statutory mandate, articulate public policy, or other public interest weighed in favor of allowing disclosure of licensed social worker's mental health treatment records for client and his client-wife, as factor for determining whether client's and client-wife's alleged constitutional privacy interests were outweighed by State's interest in having Board of Social Work Examiners subpoena the records so it could investigate allegations that the social worker committed a serious violation of her professional duties by failing to report client's suspected child abuse; Board had express statutory mandate to promote and maintain high professional standards for practice of social work. [Jane Doe v. Maryland Bd. of Social Work Examiners, 2004, 862 A.2d 996, 384 Md. 161.](#) Health  217

The potential harm to licensed social worker's client and his client-wife, from disclosure of evidence, from social worker's mental health treatment records, that generational child abuse was occurring in their household, was merely one factor to consider when determining whether client's and client-wife's alleged constitutional privacy interests were outweighed by State's interest in having Board of Social Work Examiners subpoena the records so it could investigate allegations that the social worker committed a serious violation of her professional duties by failing to report client's suspected child abuse. [Jane Doe v. Maryland Bd. of Social Work Examiners, 2004, 862 A.2d 996, 384 Md. 161.](#) Mental Health  21

The type of record requested, i.e., licensed social worker's mental health treatment records for client and his client-wife, contained information of a highly private nature, as factor for determining whether client's and client-wife's alleged constitutional privacy interests were outweighed by State's interest in having Board of Social Work Examiners subpoena the records so it could investigate allegations that the social worker committed a serious violation of her professional duties by failing to report client's suspected child abuse. [Jane Doe v. Maryland Bd. of Social Work Examiners, 2004, 862 A.2d 996, 384 Md. 161.](#) Mental Health  21

The alleged constitutional privacy rights that licensed social worker's client and his client-wife had with respect to mental health treatment records prepared by social worker were outweighed by the compelling public interest in allowing the Board of Social Work Examiners to subpoena the records so it could investigate allegations that the social worker committed a serious violation of her professional duties by failing to report client's suspected child abuse. [Jane Doe v. Maryland Bd. of Social Work Examiners, 2004, 862 A.2d 996, 384 Md. 161.](#) Mental Health  21

Neither the extensive role of the school in children's lives nor the school's obligation to make reports of suspected child abuse to Social Services creates an absolute privilege to defame on the part of anyone participating in a report of abuse or neglect; in order to receive the immunity granted by statute, one must act in good faith in making a report of abuse or neglect. [Code, Courts and Judicial Proceedings, § 5-620.](#) [Woodruff v. Trepel, 1999, 725 A.2d 612, 125 Md.App. 381,](#) certiorari denied [731 A.2d 440, 354 Md. 332.](#) Libel And Slander  42(2)

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Though letter from mother's attorney to father's attorney in which alleged physical abuse of child by father was mentioned was absolutely privileged as made in the course of a judicial proceeding, and though informing school that father could no longer pick up the child at school was of legitimate interest to the school, mother's republication of the letter to the school principal was not within the absolute privilege, as mother did not report information that the school had the authority to adjudicate and the school was not even the appropriate entity to which the mother should report allegations of physical child abuse occurring outside of the school. [Code, Family Law, § § 5-701 et seq., 5-704, 5-706.1](#); [Code, Courts and Judicial Proceedings, § 5- 620](#). [Woodruff v. Trepel, 1999, 725 A.2d 612, 125 Md.App. 381](#), certiorari denied [731 A.2d 440, 354 Md. 332](#). Libel And Slander  28; Libel And Slander  50.5

There is no privilege against counselor's legally required disclosure of fact of child abuse to law enforcement officials. Code, Family Law, § 5-704. [Reynolds v. State, 1991, 594 A.2d 609, 88 Md.App. 197](#), certiorari granted [599 A.2d 819, 325 Md. 115](#), affirmed [610 A.2d 782, 327 Md. 494](#), certiorari denied [113 S.Ct. 981, 506 U.S. 1054, 122 L.Ed.2d 134, 1992 WL 369093](#). Witnesses  214.5

Any report made under § 5-704 or [§ 5-705](#) is confidential, may be disclosed only under the limited circumstances specified by statute, and may not be disseminated to the public at large. 78 Op.Atty.Gen. No. 93-049, Dec. 3, 1993.

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