

HIGHLIGHTS OF CHILD MALTREATMENT REPORTING DATA FOR 1988

Introduction

As a result of the passage of Senate Bill 708, significant changes in Maryland's State law pertaining to child abuse and neglect went into effect on July 1, 1988. The most important of these changes was an expansion in the definition of child abuse to include abuse by any household or family member. In addition, Child Protective Services (CPS) is now required to assess the safety of all children in the household(s) to which the alleged perpetrator has access, not simply the safety of the child(ren) alleged to have been abused.

Reflecting these changes in State law, child abuse and neglect data collection methods have been altered. Prior to 1988, the number of investigations was based on the number of children reported to have been abused or neglected. During 1988, the number of investigations has been based on the number of families and types of maltreatment reported. While this revision in reporting practices better accommodates CPS' new mandates, direct comparisons between the number of investigations during 1988 and prior years must take into consideration the change in unit of measure from reported child(ren) to family.

Incidence of Abuse and Neglect

As shown in Diagram A, during 1988 there were 23,300 investigations of child maltreatment conducted in Maryland. During these investigations, the safety of 38,120 children was assessed. The number of investigations completed in 1988 represented a nine percent increase over the number of investigations completed during 1987. This rate of increase was more than double the rate of increase experienced between 1986 and 1987 (a 4% jump). Maryland's 1988 rise in the number of maltreatment investigations was also higher than the increase reported nationally. Across the country, 1988 reports rose only three percent over the 1987 level of reporting.

Type of Maltreatment

Of the total investigations completed during 1988, 49.4 percent (11,504) were of child neglect, 34.6 percent (8071) were of child physical abuse and 16 percent (3725) were of child sexual abuse. As shown in Table I, the largest increase during 1988 was in the number of investigations of child neglect (17.1%). Investigations of child sexual and physical abuse increased less sharply (5.0% and .2% respectively). Nationwide, neglect has consistently been the most prevalent form of maltreatment (63% in 1988).

Disposition of Reports

During 1988, the percentage of investigated reports in which abuse or neglect was indicated was 38.4 percent. To a greater extent in 1987 and a somewhat lesser extent in 1988, validation rates for child sexual abuse were higher than those for either physical abuse or neglect, as shown in Table II. The only national data available on report validation rates (for 1986) show a higher rate of substantiation for investigations (53 percent). This rate was significantly higher than the level of substantiation in earlier years, and is thought to be attributable to both better reporting and more appropriate screening of reports.

Child Fatalities

As shown in Table III, the reported incidence of child maltreatment related deaths decreased from 23 to 20 between 1987 and 1988 (a 10% drop). In contrast, national child treatment fatalities rose 5% in 1988. In Maryland, abuse accounts for the majority of the child maltreatment deaths (80%). Nationally, the proportion of deaths resulting from abuse and neglect are appropriately equal. Most of the Maryland children who died in 1988 were black, female and age three or younger. Internal injuries ranked as the leading cause of death for these children. The actual number of child maltreatment deaths in Maryland may be higher than the number reported. Maltreatment related deaths, particularly neglect related deaths, are sometimes go unrecognized and are classified as accidental deaths.

Note: National data referenced in this report are taken from the National Committee for the Prevention of Child Abuse's Preliminary Report for 1988 and from the National Center on Child Abuse and Neglect's Study of National Incidence and Prevalence of Child Abuse and Neglect: 1988.

TABLE I
Type of Child Maltreatment
(1987 and 1988)

<u>Year</u>	<u>Neglect</u>	<u>Physical Abuse</u>	<u>Sexual Abuse</u>	<u>Total</u>
1987	9820 (45.8%)	8052 (37.9%)	3548 (17.3%)	21420 (100%)
1988	11504 (49.4%)	8071 (34.6%)	3725 (16.0%)	23300 (100%)
Rise	1648 (17.1%)	19 (.2%)	177 (5.0%)	1880 (9%)

TABLE II
Disposition of Investigations
(1987 - 1988)*

	<u>Indicated</u>		<u>Unsubstantiated</u>	
	<u>1987</u>	<u>1988</u>	<u>1987</u>	<u>1988</u>
Physical Abuse	36.5%	37.5%	62.9%	62.5%
Sexual Abuse	47.6%	43.6%	45.2%	56.4%
Neglect	**	37.6%	**	62.4%
Total	40.1%	38.4%	57.5%	61.6%

** 1987 percentages do not total 100% due to absence of "non-caretaker" category.

** Data not available

DIAGRAM A
Incidence of Child Maltreatment
1983 - 1988 Investigations

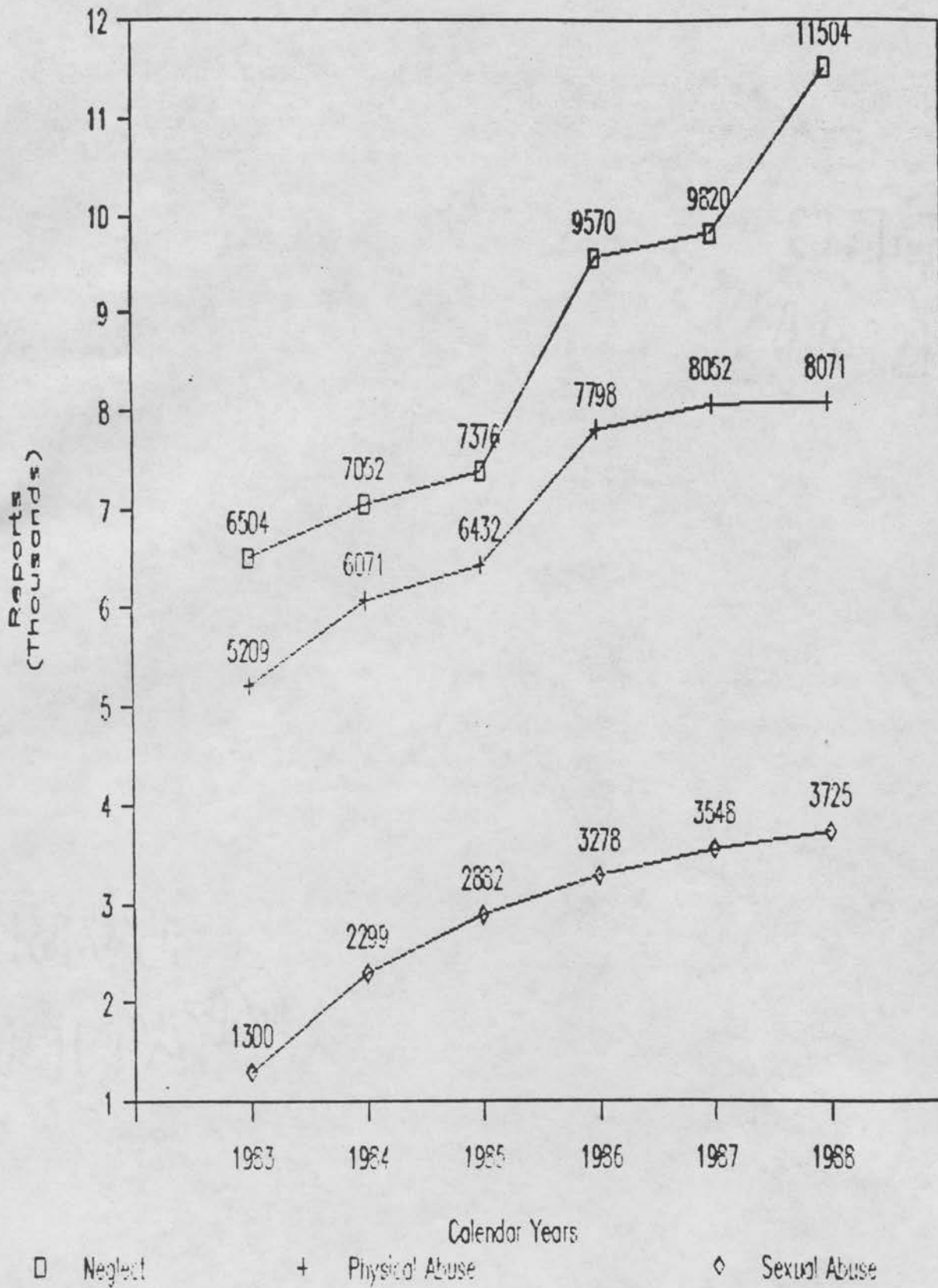


TABLE III
Child Maltreatment Deaths in Maryland

Year	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Total	16	10	8	17	23	20

PROFILE OF DEATHS

<u>Type of Maltreatment</u>	<u>1987</u>	<u>1988</u>
Abuse	17 (74%)	16 (80%)
Neglect	6 (26%)	4 (20%)
<u>Gender</u>		
Male	14 (61%)	7 (35%)
Female	9 (39%)	13 (65%)
<u>Race</u>		
Black	15 (65%)	13 (65%)
White	8 (35%)	7 (35%)
<u>Age</u>		
Less than 1 year	14	5
1 - 3 years	8	12
5 - 7 years	1	2
Over 8 years	0	1
<u>Characteristics</u>		
Average Age of Caretakers	24	23
Age Range of Caretakers	17 - 42	19 - 50
One Caretaker	16 cases	13 cases
Two Caretakers	6 cases	10 cases
Leading Cause of Death	Internal Injuries	Internal Injuries

Subtitle 2. Appointment, Suspension, and Dismissal of Personnel.

§ 6-202. Suspension or dismissal of teachers, principals and other professional personnel.

(a) *Grounds and procedure for suspension or dismissal.* — (1) On the recommendation of the county superintendent, a county board may suspend or dismiss a teacher, principal, supervisor, assistant superintendent, or other professional assistant for:

- (i) Immorality;
- (ii) Misconduct in office, including knowingly failing to report suspected child abuse in violation of § 5-903 of the Family Law Article;
- (iii) Insubordination;
- (iv) Incompetency; or
- (v) Willful neglect of duty.

(2) Before removing an individual, the county board shall send the individual a copy of the charges against him and give him an opportunity within 10 days to request a hearing.

(3) If the individual requests a hearing within the 10 day period:

(i) The county board promptly shall hold a hearing, but a hearing may not be set within 10 days after the county board sends the individual a notice of the hearing; and

(ii) The individual shall have an opportunity to be heard before the county board, in person or by counsel, and to bring witnesses to the hearing.

(4) The individual may appeal from the decision of the county board to the State Board. In Baltimore City, this paragraph does not apply to the suspension and removal of assistant superintendents and higher levels.

(5) In Baltimore City the suspension and removal of assistant superintendents and higher levels shall be as provided by the city charter.

(b) *Probationary period.* — Except for personnel of the Baltimore City public schools at the level of assistant superintendent or above, this section does not prohibit the State Board from adopting bylaws to provide for a probationary period of employment of 2 years or less. (An. Code 1957, art. 77, §§ 56D, 114; 1978, ch. 22, § 2; 1979, ch. 306; 1986, ch. 111.)

Effect of amendment. — The 1986 amendment, effective July 1, 1986, added "including knowingly failing to report suspected child abuse in violation of § 5-903 of the Family Law Article" at the end of subparagraph (ii) of paragraph (1) of subsection (a).

Editor's note. — Section 2, ch. 111, Acts 1986, provides that "this act shall be construed only prospectively and may not be applied or

interpreted to have any effect upon or application to any event or happening occurring prior to July 1, 1986."

Maryland Law Review. — For article "Survey of Developments in Maryland Law, 1983-84," see 44 Md. L. Rev. 268 (1985).

Applied in *Board of Educ. v. Ballard*, 67 Md. App. 235, 507 A.2d 192 (1986).

(3) A year of successful teaching experience in the vocational subject to be taught is required of all teachers who have not completed student teaching.

.10 Causes for Suspension and Revocation of a Maryland Certificate.

Upon the recommendation of a local board of education, or the Assistant State Superintendent in Certification and Accreditation when the individual is not employed by a local board of education in Maryland, any certificate issued under these regulations may be suspended or revoked by the State Superintendent if the certificate holder:

A. Willfully and knowingly:

(1) Makes a material misrepresentation or concealment in the application for a certificate, or

(2) Files a false report or record about a material matter in the application for a certificate;

B. Fraudulently or deceptively obtains a certificate;

C. Is convicted of a crime involving:

(1) Child abuse or neglect,

(2) Contributing to the delinquency of a minor, or

(3) Moral turpitude if the offense bears directly on the individual's fitness to teach;

D. Has been dismissed by a local board of education for knowingly failing to report suspected child abuse in violation of the Family Law Article, §5-903, Annotated Code of Maryland;

E. Has had the certificate suspended or revoked in another state within the past 5 years for a cause which would be grounds for suspension or revocation under §§A — D, above;

F. Leaves the employment of a local school system after the beginning of the school year without the consent of the county board and contrary to the provisions of the Regular State Teachers Contract set forth in COMAR 13A.07.02.01B, except that only a suspension which may not exceed 365 days shall be the penalty for this cause.

.11 Procedures for Suspension or Revocation of a Certificate.

A. The local board of education, or the Assistant State Superintendent in Certification and Accreditation when an individual is not em-

danger to persons or property. If an emergency suspension continues for more than five school days, the county superintendent or his designee shall approve the emergency suspension. If a handicapped student is subject to emergency suspension, the procedures set forth in §F(1) and (2) shall be followed as soon as possible.

(b) If an emergency suspension continues for more than ten school days, the handicapped student shall be offered an interim instructional service for a minimum of 6 hours a week while the procedures set forth in §F(1) and (2) are pending. This instructional service should reflect reasonable efforts to implement the current IEP.

.07 Arrests on School Premises.

A. When possible and appropriate, arrest by police should be made during non-school hours and away from the school premises.

B. When an arrest on school premises during the school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer which will enable him to fully advise the parent or guardian and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the pupil.

C. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardian immediately and thereafter promptly to advise the Superintendent's Office.

D. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the pupil being arrested and jeopardizing the safety and welfare of other pupils.

E. School officials may not permit questioning of a pupil under arrest on the school premises and shall request the arresting officer to remove the pupil from the premises as soon as practicable after the arrest is made.

.08 Questioning on School Premises.

A. Police investigations involving the questioning of pupils may not be permitted on school premises unless in connection with a crime committed on the premises or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the pupils or other persons, provided, however, that a school official should be present throughout that questioning.

B. A local school system shall permit personnel from a local department of social services or a police officer to question a pupil on school premises during the school day in an investigation involving suspected child neglect under Family Law Article, Subtitle 7, Annotated Code of Maryland, or suspected child abuse under Family Law Article, Subtitle 9, Annotated Code of Maryland. The following apply:

(1) The Superintendent or the Superintendent's designated representative shall determine, after consultation with the individual from the local department of social services or the police officer, whether a school official shall be present during the questioning of a pupil pursuant to this section.

(2) Records and reports concerning child abuse or neglect are confidential, and unauthorized disclosure is a criminal offense under Article 88A, §6(b), Annotated Code of Maryland.

C. Except as provided in §D, whenever investigative questioning of pupils is permitted on the premises, the school official shall promptly advise the parent or guardian and the Superintendent's Office of the nature of the investigation and such other details as may be required.

D. School officials are not required to notify parents or guardians of investigations on school premises involving suspected child neglect under Family Law Article, Subtitle 7, Annotated Code of Maryland, and suspected child abuse under Family Law Article, Subtitle 9, Annotated Code of Maryland.

E. In the absence of an arrest, school officials may not authorize the removal of a pupil from school for the purpose of investigative questioning without the consent of the parent or guardian, except as provided below:

(1) A pupil may be removed from school premises if that pupil is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child.

(2) The Superintendent or the Superintendent's designated representative shall insure that prompt notification of a pupil's removal from school under this section is made to the pupil's parent or guardian.

from any source is promptly directed to child protective services within the local department.

D. The local department of social services shall acknowledge receipt of the report, and indicate that investigation is being made, to every source of a report of suspected child abuse or neglect. The detail shared shall depend on the source of the report and the involvement of the source in the case.

E. The local department of social services shall encourage professional sources of reports to share information about the referral with the reported family, but the department may not identify any reporting source to a reported family, unless:

(1) The reporting source is not a lay person but is a source of referral that is required by law to report suspected abuse or neglect, and this reporting source has clearly given oral or written permission to the local department to reveal its identity;

(2) A court of law has ordered the local department to reveal the identity to the reported family; or

(3) The department is otherwise required by law to reveal the identity of the reporting source.

F. Every local department shall have staff "on call" 24 hours a day, 7 days a week, to take appropriate action on reports of suspected child abuse and child neglect. The local department shall assure that the public has a means of access to the staff "on call" after office hours.

.07 Response to a Report of Suspected Child Abuse.

A. Regardless of whether a report is in the form of a telephone call, a written note or letter, a conversation, or another sort of communication, the time periods established in this chapter begin with the time of initial contact in the local department of social services.

B. The local department shall attempt to obtain from a reporting source as much of the following information as the person making the report is able to provide:

(1) The name and home address of the child and the name of the parent or other person responsible for the care of the child;

(2) The present location of the child;

(3) The age of the child;

(4) The names and ages of other children in the home;

§ 6. Misuse of public assistance lists and records.

(a) *In general.* — Except in accordance with a court order or to an authorized officer or employee of the State, or the United States, or a fiduciary institution having a right thereto in an official capacity, and as necessary to discharge responsibilities to administer public assistance, medical assistance, or social services programs, it shall be unlawful for any person or persons to divulge or make known in any manner any information concerning any applicant for or recipient of social services, child welfare services, cash assistance food stamps, or medical assistance, directly or indirectly derived from the records, papers, files, investigations or communications of the State, county or city, or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

(b) *Child abuse or neglect.* — Except as otherwise provided in Title 5, Subtitle 9 of the Family Law Article, all records and reports concerning child abuse or neglect are confidential, and their unauthorized disclosure is a criminal offense subject to the penalty set out in subsection (e) of this section. Information contained in reports or records concerning child abuse or neglect may be disclosed only:

- (1) Under a court order;
- (2) To personnel of local or State departments of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, who are investigating a report of known or suspected child abuse or neglect or who are providing services to a child or family that is the subject of the report;
- (3) To local or State officials responsible for the administration of the child protective service as necessary to carry out their official functions;
- (4) To a person who is the alleged child abuser or the person who is suspected of child neglect if that person is responsible for the child's welfare and provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information;
- (5) To a licensed practitioner who, or an agency, institution, or program which is providing treatment or care to a child who is the subject of a report of child abuse or neglect; or

(6) To a parent or other person who has permanent or temporary care and custody of a child, if provisions are made for the protection of the identity of the reporter or any other person whose life or safety is likely to be endangered by disclosing the information.

(c) *Statistics; financial records.* — Nothing in this section shall be construed to prohibit:

(1) The publication, for administrative or research purposes, of statistics or other data so classified as to prevent the identification of particular persons or cases;

(2) The Department of Human Resources from obtaining an individual's financial records from a fiduciary institution in the course of verifying the individual's eligibility for public assistance; or

(3) Disclosures as permitted by § 1-303 of the Financial Institutions Article of the Code.

(d) *Regulations.* — The Social Services Administration shall issue regulations governing access to and use of confidential information which is in the possession of the Administration or local departments of social services.

(e) *Penalty.* — Any offense against the provisions of this section shall be a misdemeanor and shall be punishable by a fine not exceeding five hundred dollars (\$500) or imprisonment for not exceeding ninety days, or both, in the discretion of the court. (An. Code, 1951, § 6; 1941, ch. 238, § 3A; 1951, ch. 82, § 3A; 1968, ch. 702, § 1; 1980, ch. 384; 1983, ch. 492, §§ 2, 3; 1984, ch. 369, § 2; ch. 683; 1986, ch. 5, § 2; ch. 234.)

Effect of amendments.

Chapter 5, Acts 1986, effective July 1, 1986, reenacted the section without change.

Chapter 234, Acts 1986, effective July 1, 1986, in subsection (b), inserted a comma following "teams" in paragraph (2) and added paragraphs (5) and (6).

Editor's note. — Section 6, ch. 5, Acts 1986, provides that "the provisions of this act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this act."

Information related to agency performance may be disclosed to the public in a case in which a child has died as a result of abuse and a parent or other person has been arrested on charges related to that abuse. In such a case, the Social Security Administration may disclose: (1) Whether the child had ever been the subject of a report of suspected abuse; (2) the date on which any such report was received; (3) the dates on which the local department of social services initiated and completed

its investigation into the validity of the report; and (4) the general nature of the department's investigation. 71 Op. Att'y Gen. — (July 25, 1986).

The power of a court to order disclosure is not a broad grant of authority to emasculate the protective provisions of the statutes, but it is a recognition that when the information is relevant to some other purpose such as adoption, custody, guardianship, and visitation, the court may require the agency to disclose the protested matter. *Freed v. Worcester County Dep't of Social Servs.*, 69 Md. App. 447, 518 A.2d 159 (1986).

Protecting identity of reporters of child neglect. — The State has a rational basis for protecting reporters of child neglect, which is to encourage reports of child neglect, concomitantly discourage incidents thereof, and simultaneously provide protection to those least able to protect themselves. Such a statutory classification survives a constitutional challenge of denial of equal protection by persons mistakenly reported. *Freed v. Worcester County Dep't of Social Servs.*, 69 Md. App. 447, 518 A.2d 159 (1986).

EXHIBIT III

PHYSICAL AND BEHAVIORAL INDICATORS OF CHILD ABUSE AND NEGLECT

TYPE OF CAUSE	PHYSICAL INDICATORS	BEHAVIORAL INDICATORS
PHYSICAL ABUSE	<p>Unexplained Bruises and Welts:</p> <ul style="list-style-type: none"> - on face, lips, mouth - on torso, back, buttocks, thighs - in various stages of healing - clustered, forming regular patterns reflecting shape of article used to inflict (electric cord, belt buckle) - on several different surface areas - regularly appear after absence, weekend or vacation <p>Unexplained Burns:</p> <ul style="list-style-type: none"> - cigar, cigarette burns, especially on soles, palms, back or buttocks - immersion burns (sock-like, glove-like, doughnut shaped on buttocks or genitalia) - patterned like electric burner, iron, etc. - rope burns on arms, legs, neck or torso <p>Unexplained Fractures:</p> <ul style="list-style-type: none"> - to skull, nose, facial structure - in various stages of healing - multiple or spiral fractures <p>Unexplained Lacerations or Abrasions:</p> <ul style="list-style-type: none"> - to mouth, lips, gums, eyes - to external genitalia 	<p>Wary of Adult Contacts</p> <p>Apprehensive When Other Children Cry</p> <p>Behavioral Extremes:</p> <ul style="list-style-type: none"> - aggressiveness, or - withdrawal <p>Frightened of Parents</p> <p>Afraid to go Home</p> <p>Reports Injury by Parents</p>
PHYSICAL NEGLECT	<p>Consistent Hunger, Poor Hygiene, Inappropriate Dress</p> <p>Consistent Lack of Supervision, Especially in Dangerous Activities or Long Periods</p> <p>Unattended Physical Problems or Medical Needs</p> <p>Abandonment</p>	<p>Begging, Stealing Food</p> <p>Extended Stays at School (early arrival and late departure)</p> <p>Constant Fatigue, Listlessness or Falling Asleep in Class</p> <p>Alcohol or Drug Abuse</p> <p>Delinquency (e.g. thefts)</p> <p>Status There Is No Caretaker</p>
SEXUAL ABUSE	<p>Difficulty in Walking or Sitting</p> <p>Torn, Stained or Bloody Underclothing</p> <p>Pain or Itching in Genital Area</p> <p>Bruises or Bleeding in External Genitalia, Vaginal or Anal Areas</p> <p>Veneral Disease, Especially in Pre-teens</p> <p>Pregnancy</p>	<p>Unwilling to Change for Gym or Participate in Physical Education Class</p> <p>Withdrawal, Fantasy or Infantile Behavior</p> <p>Bizarre, Sophisticated, or Unusual Sexual Behavior or Knowledge</p> <p>Poor Peer Relationships</p> <p>Delinquent or Run Away</p> <p>Reports Sexual Assault by Caretaker</p>
EMOTIONAL MALTREATMENT	<p>Speech Disorders</p> <p>Lags in Physical Development</p> <p>Failure-to-thrive</p>	<p>Habit Disorders (sucking, biting, rocking, etc.)</p> <p>Conduct Disorders (antisocial, destructive, etc.)</p> <p>Neurotic Traits (sleep disorders, inhibition of play)</p> <p>Psychoneurotic Reactions (hysteria, obsession, compulsion, phobias, hypochondria)</p> <p>Behavior Extremes:</p> <ul style="list-style-type: none"> - compliant, passive - aggressive, demanding <p>Overly Adaptive Behavior:</p> <ul style="list-style-type: none"> - inappropriately adult - inappropriately infant <p>Developmental Lags (mental, emotional)</p> <p>Attempted Suicide</p>

SUSPECTS
* **PHYSICAL ABUSE**
* **SEXUAL ABUSE**
* **NEGLECT**

**TELEPHONE
PROTECTIVE SERVICES**
* **Name, Age, Home Address, Location of Child**
* **Name of Caretaker**
* **Nature and Extent of PH/SEX Abuse or Neglect**
* **Other Relevant Information**

ABUSE CASES

NEGLECT CASES

**P.S. Notifies
Police**

**INVESTIGATION
Protective Services
(Youth Division)**
* **Promptly but by law
within 24 hours**

* **Refers Serious Case
to State's Attorney
for Criminal Prosecution**

**INVESTIGATION
Protective Services**
* **Within 5 days
but promptly if child
in imminent danger**

* **Investigator(s) to**
* **Interview Complainant**
* **Interview Child**
* **Assess Child's need for Medical Exam**
* **Try to Contact Caretaker & Set up Interview**
* **Assess Safety Factors for Child**

* **Contact Caretaker and
Begins Investigation**
* **Assess Neglect Factors**
* **Assess Safety Factors**

* **Assess Need to Take Child into Protective Custody**
* **Assess Need for Shelter Placement of Child**
* **Juvenile Court Action**

DISPOSITION

**Case May Be Unsubstantiated
and CLOSED**

**Case May Be Closed
but Referred for
Community Services**

**Case May Be Indicated
and opened with
PROTECTIVE SERVICES
carrying Case Responsibility
and Coordinating Services**

CHILD ABUSE AND NEGLECT

I. HISTORY

1875 ASPCA Investigation of Mary Ellen
The Early 60's-Dr. Henry Kempe "The Battered Child Syndrome"
1963 Maryland's Abuse Law
Child Abuse Prevention and Treatment Act of 1973

II. SCOPE OF THE PROBLEM

National Statistics
Maryland Statistics

III. CHILD PHYSICAL ABUSE

Maryland Law
Family Law Article §5-701(b)(1)
Article 27 §35A
Physical Indicators
Behavioral Indicators

IV. CHILD SEXUAL ABUSE

Maryland Law
Family Law Article 5-701(b)(2) & (9)
Physical Indicators
Behavioral Indicators

V. CHILD NEGLECT

Maryland Law
Family Law Article 5-701(n)
Physical Indicators
Behavioral Indicators

VI. REPORTING CHILD ABUSE AND NEGLECT

Requirements
Professional Sanctions for Failing to Report
Immunity for Reporting and Participation

VII. EXPECTED OUTCOMES AFTER A REPORT IS MADE

Child Protective Services:

Screening - Definition and Purpose
Intake - Definition and Purpose
Continuing - Definition and Purpose
Confidentiality Law - Article 88A§6 of Maryland Annotated Code

VIII. QUESTIONS AND ANSWERS

CHILD MALTREATMENT LAWS

* "SERVICE LAW"
FAMILY LAW ARTICLE SUBTITLE 7
CHILD ABUSE AND NEGLECT

* "CRIMINAL LAW"
(FOR CHILD ABUSE)

ARTICLE 27 SECTION 35A OF
MARYLAND ANNOTATED CODE

* THERE IS NO CRIMINAL LAW FOR
"CHILD NEGLECT"

PHYSICAL ABUSE

(§5-701 (b)(1))

- * SUSTAINING OF PHYSICAL INJURY
... NOT NECESSARILY VISIBLE
- * CHILD UNDER AGE 18
- * BY PARENT, CARETAKER,
HOUSEHOLD OR FAMILY MEMBER
- * UNDER CIRCUMSTANCES THAT
INDICATE CHILD'S HEALTH OR
WELFARE IS SIGNIFICANTLY
HARMED OR AT RISK OF
SIGNIFICANT HARM

SEXUAL ABUSE

(§5-701(B)(2))

- * DOES NOT REQUIRE PHYSICAL INJURY
- * CHILD UNDER AGE 18
- * PARENT, CARETAKER, HOUSEHOLD OR FAMILY MEMBER
- * SEXUAL MOLESTATION OR EXPLOITATION

DEFINITION IN COMAR .07.02.07.02(18)

* "SEXUAL MOLESTATION OR
EXPLOITATION"

INCLUDES, BUT IS NOT LIMITED
TO CONTACT OR CONDUCT WITH A
CHILD FOR THE PURPOSE OF
SEXUAL GRATIFICATION, AND MAY
RANGE FROM SEXUAL ADVANCES,
KISSING, OR FONDLING TO SEXUAL
CRIME IN ANY DEGREE, RAPE,
SODOMY, PROSTITUTION, OR
ALLOWING, PERMITTING,
ENCOURAGING OR ENGAGING IN THE
OBSCENE OR PORNOGRAPHIC
DISPLAY, PHOTOGRAPHING,
FILMING OR DEPICTION OF A
CHILD AS PROHIBITED BY LAW.

FAMILY MEMBER

(§5-701(g))

- RELATIVE BY BLOOD, ADOPTION OR MARRIAGE

HOUSEHOLD MEMBER

(§5-701(j))

- PERSON WHO LIVES WITH A CHILD OR
- HAS A REGULAR PRESENCE IN HOME OF A CHILD AT THE TIME OF ALLEGED ABUSE/NEGLECT

HOUSEHOLD

(§5-701(i))

LOCATION WHERE:

- * CHILD RESIDES
- * ABUSE/NEGLECT IS ALLEGED TO
HAVE OCCURRED OR
- * WHERE THE PERSON SUSPECTED OF
ABUSE/NEGLECT RESIDES

NEGLECT

(§-701 (n))

- * FAILURE TO GIVE PROPER CARE AND ATTENTION - INCLUDING THE LEAVING OF A CHILD UNATTENDED
- * CHILD UNDER AGE 18
- * ABSENCE OR FAILURE BY PARENTS, GUARDIAN, CUSTODIAN
- * UNDER CIRCUMSTANCES THAT INDICATE THAT THE CHILD'S HEALTH OR WELFARE IS SIGNIFICANTLY HARMED OR AT RISK OF SIGNIFICANT HARM

REPORTING ABUSE/NEGLECT

- * ALL PEOPLE ARE MANDATED TO REPORT
- * ANONYMOUS REPORTS ACCEPTED
- * IDENTITY OF THE REPORTER IS PROTECTED (UNLESS THE REPORTER IS A PROFESSIONAL AND GIVES PERMISSION)
- * IMMUNE FROM CIVIL LIABILITY AND CRIMINAL PENALTY FOR REPORTING AND PARTICIPATION IN ANY INVESTIGATION AND ANY JUDICIAL PROCEEDING (\$5-708)
- * ONLY "REASON TO BELIEVE"

REPORTING ABUSE/NEGLECT (cont'd)

(§5-704)

* PROFESSIONALS - MANDATED TO REPORT DIRECTLY TO THE LOCAL DEPARTMENT OF SOCIAL SERVICES AND ALSO MUST NOTIFY THE HEAD OF THEIR INSTITUTION.

* HEALTH PRACTITIONERS

* POLICE OFFICER

* EDUCATOR

* HUMAN SERVICE WORKER

* PROFESSIONAL SANCTIONS

FOR FAILING TO REPORT

○ HEALTH PRACTITIONERS

HEALTH OCCUPATIONS

ARTICLE §7-313 AND §14-504

○ POLICE OFFICER

ARTICLE 41 §4-201

○ EDUCATOR

EDUCATION ARTICLE §6-202

○ HUMAN SERVICE WORKER

HEALTH OCCUPATIONS ARTICLE
§18-310

EXCEPTIONS TO REPORTING REQUIREMENTS

(§5-705)

* ATTORNEY REPRESENTING CLIENT
§9-108 OF THE COURTS ARTICLE

* CLERGY

1. COMMUNICATION DESCRIBED
IN §9-111 COURTS
ARTICLE

2. PROFESSIONAL CHARACTER IN
COURSE OF DISCIPLINE

3. COMMUNICATION IS
CONFIDENTIAL UNDER
CANON LAW, CHURCH
DOCTRINE OR PRACTICE

AFTER A REPORT IS MADE TO CHILD

PROTECTIVE SERVICES

- * SCREENING
- * INTAKE
- * CONTINUING

INVESTIGATION - "INTAKE"

* INITIATION

* DECISION ON SAFETY OF OTHER
CHILDREN IN CARE AND
CUSTODY OF ALLEGED ABUSER
AND IN HOUSEHOLD

* DETERMINATION OF ANY NEEDED
SERVICES

* COMPLETION

10 DAYS, IF POSSIBLE

60 DAYS - MAX

DISPOSITIONS

* SAME FOR ABUSE AND NEGLECT

* REDUCED TO TWO CATEGORIES

INDICATED

UNSUBSTANTIATED

A PREPONDERANCE OF THE EVIDENCE

"MORE LIKELY THAN NOT"

CONFIDENTIALITY

ARTICLE 88A §6(b)

CONDITIONS FOR RELEASE OF INFO
(NOT MANDATORY TO RELEASE)

1. COURT ORDER
2. LDSS, SSA, LAW ENFORCEMENT,
TEAMS (INVESTIGATING OR
SERVICE)
3. LOCAL OR STATE CPS OFFICIALS
4. ALLEGED ABUSER/NEGLECTER
(PROTECT REPORTER & OTHERS
AT RISK)
5. TREATMENT OR CARE PROVIDERS TO
CHILD INCLUDES: SCHOOL,
FOSTER CARE, DAY CARE
6. PARENT/CARETAKER (PROTECT
REPORTER & OTHERS AT RISK)

dren. Any such agreement which contains a financial commitment or imposes a financial obligation on this State or subdivision or agency thereof shall not be binding unless it has the approval in writing of the Department of Human Resources.

Editor's note. — This paragraph is set out in this supplement in order to correct an error appearing in the bound volume.

Subtitle 7. Child Abuse and Neglect.

§ 5-701. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Abuse.* — (1) "Abuse" means:

(i) the physical injury of a child by any 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, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed; or

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

(2) "Abuse" does not include, for that reason alone, providing a child with nonmedical religious remedial care and treatment recognized by State law.

(c) *Administration.* — "Administration" means the Social Services Administration of the Department.

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

(e) *Court.* — "Court" means:

- (1) the circuit court for a county sitting as a juvenile court; or
- (2) in Montgomery County, the District Court sitting as a juvenile court.

(f) *Educator or human service worker.* — (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.* — "Family member" means a relative by blood, adoption, or marriage of a child.

(h) *Health practitioner.* — "Health practitioner" includes any person who is authorized to practice healing under the Health Occupations Article.

(i) *Household.* — "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.* — "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) *Law enforcement agency.* — (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.

(l) *Local department.* — "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.

(m) *Local State's Attorney.* — "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.

(n) *Neglect.* — (1) "Neglect" means the leaving of a child unattended or other failure to give proper care and attention to a child by the child's parents, guardian, or custodian under circumstances that indicate that the child's health or welfare is significantly harmed or placed at risk of significant harm.

(2) "Neglect" does not include, for that reason alone, providing a child with nonmedical religious remedial care and treatment recognized by State law.

(o) *Police officer.* — "Police officer" means any State or local officer who is authorized to make arrests as part of the officer's official duty.

(p) *Sexual abuse.* — (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) incest, rape, or sexual offense in any degree;
- (ii) sodomy; and
- (iii) unnatural or perverted sexual practices. (1987, ch. 635, § 2; 1989, ch. 395; ch. 730, §§ 1, 2.)

Effect of amendment. — Chapter 395, Acts 1989, effective July 1, 1989, rewrote (b) and (n).

Chapter 730, Acts 1989, effective July 1, 1989, repealed former (o), and redesignated former (p) and (q) as present (o) and (p).

Revision of subtitle. — Chapter 635, Acts 1987, effective July 1, 1988, repealed former §§ 5-701 to 5-710 and the subtitle heading "Subtitle 7. Neglected Children" and enacted

present §§ 5-701 to 5-715 and the subtitle heading "Subtitle 7. Child Abuse and Neglect" in lieu thereof.

Maryland Law Review. — For article, "Survey of Developments in Maryland Law, 1983-84," see 44 Md. L. Rev. 567 (1985).

University of Baltimore Law Review. — For article concerning the hearsay exception for child abuse victims, see 17 U. Balt. L. Rev. 1 (1987).

§ 5-702. Legislative policy.

The purpose of this subtitle is to protect children who have been the subject of abuse or neglect by:

- (1) mandating the reporting of any suspected abuse or neglect;
- (2) giving immunity to any individual who reports, in good faith, a suspected incident of abuse or neglect;
- (3) requiring prompt investigation of each reported suspected incident of abuse or neglect;
- (4) causing immediate, cooperative efforts by the responsible agencies on behalf of children who have been the subject of reports of abuse or neglect; and
- (5) requiring each local department to give the appropriate service in the best interest of the abused or neglected child. (1987, ch. 635, § 2.)

§ 5-703. Scope of subtitle.

The provisions of this subtitle are in addition to and not in substitution for the provisions of Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article. (1987, ch. 635, § 2.)

§ 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.
- (b) *Oral and written reports; cooperation among departments and agencies.*
 — (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) *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.
- (1987, ch. 635, § 2; 1989, ch. 730, §§ 1, 2.)

Effect of amendment. — The 1989 amendment, effective July 1, 1989, repealed former (b), and redesignated former (c) and (d) as present (b) and (c).

Disclosure of material or information. — The requirements of Rule 4-263, concerning the disclosure of material or information, extend to relevant material in the hands of a sex-

ual assault center and the police and social services departments where those agencies participate in the investigation or evaluation of the action and either regularly report, or with reference to the particular action have reported, to the office of the State's Attorney. *Craig v. State*, 76 Md. App. 250, 544 A.2d 784 (1988).

§ 5-705. Same — By other persons.

(a) *In general.* — (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 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:

- (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.
- (2) A person is not required to provide notice under paragraph (1) of this subsection:
- (i) in violation of the privilege described under § 9-106 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) *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 (d) 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. (1987, ch. 635, § 2; 1988, chs. 769, 770; 1989, ch. 5, § 1.)

Effect of amendments. — Chapter 769, Acts 1988, effective July 1, 1988, added the "(1)" designation at the beginning of subsection (a) and deleted the former designation "(1)" preceding subparagraph (i) of subsection (a); added the exception at the beginning of, and substituted "including a law" for "including any law" in, subsection (a) (1); and added subsections (a) (2) and (3).

Chapter 770, Acts 1988, effective July 1, 1988, added the "(1)" designation at the beginning of subsection (a) and deleted the former designation "(1)" preceding subparagraph (i) of subsection (a); added the exception at the beginning of subsection (a) (1); and added subsections (a) (2) and (3).

Neither of the 1988 amendments to subsection (a) of this section referred to the other, but

both have been given effect in the section as set out above.

The 1989 amendment, approved Mar. 9, 1989, and effective from date of passage, in (d) (1), substituted "§ 5-704 (d)" for "§ 5-704 (c)."

Protecting identity of reporters of child neglect. — The State has a rational basis for protecting reporters of child neglect, which is: To encourage reports of child neglect, concomitantly discourage incidents thereof, and simultaneously provide protection to those least able to protect themselves. Such a statutory classification survives a constitutional challenge of denial of equal protection by persons mistakenly reported. *Freed v. Worcester County Dep't of Social Servs.*, 69 Md. App. 447, 518 A.2d 159 (1986), appeal dismissed, — U.S. —, 108 S. Ct. 49, 98 L.Ed.2d 14 (1987).

§ 5-706. Investigation.

(a) *In general.* — Promptly after receiving a report of suspected abuse or neglect:

(1) the local department or the appropriate law enforcement agency, or both, if jointly agreed on, shall make a thorough investigation of a report of suspected abuse to protect the health, safety, and welfare of the child or children; or

(2) the local department shall make a thorough investigation of a report of suspected neglect to protect the health, safety, and welfare of the child or children.

(b) *Time for initiation; actions to be taken.* — Within 24 hours after receiving a report of suspected abuse and within 5 days after receiving a report of suspected neglect, the local department or the appropriate law enforcement agency shall:

(1) see the child;

(2) attempt to have an on-site interview with the child's caretaker;

(3) decide on the safety of the child, wherever the child is, and of other children in the household; and

(4) decide on the safety of other children in the care or custody of the alleged abuser.

(c) *Scope.* — The investigation shall include:

(1) a determination of the nature, extent, and cause of the abuse or neglect, if any; and

(2) if the suspected abuse or neglect is verified:

(i) a determination of the identity of the person or persons responsible for the abuse or neglect;

(ii) a determination of the name, age, and condition of any other child in the household;

(iii) an evaluation of the parents and the home environment;

(iv) a determination of any other pertinent facts or matters; and

(v) a determination of any needed services.

(d) *Assistance by State's Attorney.* — On request by the local department, the local State's Attorney shall assist in the investigation.

(e) *Written agreement to specify standard operating procedures.* — The local department, the appropriate law enforcement agencies, the State's Attorney within each county and Baltimore City, the Department's office responsible for child care regulation, and the local health officer, shall enter into a written agreement that specifies standard operating procedures for the investigation and prosecution of reported cases of suspected abuse.

(f) *Joint investigation procedure.* — (1) The agencies responsible for investigating reported cases of suspected sexual abuse, including the local department, the appropriate law enforcement agencies, and the local State's Attorney, shall implement a joint investigation procedure for conducting joint investigations of sexual abuse.

(2) The joint investigation procedure shall:

(i) include appropriate techniques for expediting validation of sexual abuse complaints;

(ii) include investigation techniques designed to:

1. decrease the potential for physical harm to the child; and

2. decrease any trauma experienced by the child in the investigation and prosecution of the case; and

(iii) establish an ongoing training program for personnel involved in the investigation or prosecution of sexual abuse cases.

(g) *Time for completion.* — (1) To the extent possible, an investigation under this section shall be completed within 10 days after receipt of the first notice of the suspected abuse or neglect by the local department or law enforcement agencies.

(2) An investigation which is not completed within 30 days shall be completed within 60 days of receipt of the first notice of the suspected abuse or neglect.

(h) *Preliminary findings.* — Within 10 days after the local department or law enforcement agency receives the first notice of suspected abuse, the local department or law enforcement agency shall report to the local State's Attorney the preliminary findings of the investigation.

(i) *Written report of findings.* — Within 5 business days after completion of the investigation of suspected abuse, the local department and the appropriate law enforcement agency, if that agency participated in the investigation, shall make a complete written report of its findings to the local State's Attorney. (1987, ch. 635, § 2; 1988, ch. 6, § 2; ch. 247.)

Effect of amendments. — Chapter 6, Acts 1988, effective July 1, 1988, in subsection (e), deleted "and" following "agencies" and inserted "and the local health officer" following "City."

Chapter 247, Acts 1988, effective July 1, 1988, deleted "and" following "agencies" and inserted "the Department's office responsible for child care regulation, and the local health officer" in subsection (e).

Neither of the 1988 amendments to subsection (e) of this section referred to the other, but both have been given effect in the section as set out above.

Editor's note. — Section 14, ch. 6, Acts 1988, provides that "the provisions of this act are intended solely to correct technical errors in the law and that there is no intent to revive or otherwise affect law that is the subject of other acts, whether those acts were signed by the Governor prior to or after the signing of this act."

Section 2, ch. 247, Acts 1988, as amended by § 1, ch. 5, Acts 1989, approved Mar. 9, 1989, and effective from date of passage, provides that "all persons who are, as of July 1, 1988, classified employees of the Department of Health and Mental Hygiene and whose positions are transferred to the Department of

Human Resources by this act are hereby transferred to the Department of Human Resources, effective July 1, 1988, without any change or loss of rights or status, and shall retain their merit system and retirement system status, except as otherwise specifically provided in this act."

Section 3 of ch. 247 provides that "except as expressly provided to the contrary in this act, any transaction affected by or flowing from any statute here amended, repealed, or transferred, and validly entered into before July 1, 1988 and every right, duty, or interest following from it remains valid after July 1, 1988 and may be terminated, completed, consummated, or enforced pursuant to law."

Section 4 of ch. 247 provides that "except as otherwise provided in this act, all permits and licenses, applications for permits and licenses, rules and regulations, proposed rules and regulations, standards and guidelines, proposed standards and guidelines, orders and other directives, forms, plans, memberships, special funds, appropriations, grants, applications for grants, contracts, properties, investigations, administrative and judicial proceedings, rights to sue and be sued, and all other duties and responsibilities associated with those functions transferred by this act shall continue in effect

under the Secretary of Human Resources or the appropriate board, council, or other unit within the Department, until completed, withdrawn, cancelled, modified, or otherwise changed pursuant to law."

Section 7 of ch. 247 provides that "the Department of Human Resources may enter into an intergovernmental agreement with a local government to ensure that all persons who are classified employees of a local government and who elect to apply, and are selected for transfer, to the Department of Human Resources under this act shall be transferred without any change or loss of rights or status, and shall retain their merit system and retirement system status, except as otherwise specifically provided in this act."

Section 8 of ch. 247 provides that "the Department of Human Resources shall study the feasibility of delegating the authority for the administration of child care services to local jurisdictions and shall report back to the House Environmental Matters Committee and the Senate Economic and Environmental Affairs Committee by Dec. 1, 1988."

Section 9 of ch. 247 provides that "nothing in this act shall be construed to prohibit a local jurisdiction from enhancing the administration of Part VII of Title 5 of the Family Law Article, including:

1. Providing funds for additional licensing staff to increase inspection;
2. Providing training and education for licensees and child care center staff;

§ 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 of this subtitle concludes that the report is unsubstantiated; and

(2) no further reports of abuse or neglect are received during the 5 years. (1987, ch. 635, § 2.)

Protecting identity of reporters of child neglect. — The State has a rational basis for protecting reporters of child neglect, which is: To encourage reports of child neglect, concomitantly discourage incidents thereof, and simultaneously provide protection to those least able to protect themselves. Such a statutory classification

3. Providing child care information and referral to consumers; and

4. Developing an outreach program for licensees."

Section 10 of ch. 247 provides that "the Department of Human Resources shall consult with child care providers, religious organizations, local governments, and other interested parties in developing the regulations to carry out the purpose of this act."

Disclosure of material or information. — The requirements of Rule 4-263, concerning the disclosure of material or information, extend to relevant material in the hands of a sexual assault center and the police and social services departments where those agencies participate in the investigation or evaluation of the action and either regularly report, or with reference to the particular action have reported, to the office of the State's Attorney. *Craig v. State*, 76 Md. App. 250, 544 A.2d 784 (1988).

Search was reasonable under Fourth Amendment. — Search of a second child was reasonable under the Fourth Amendment to the United States Constitution where search of child about whom a report of suspected child abuse had been filed revealed markings; the search of the second child was reasonably related to the strong possibility that both children were the victims of child abuse. *Wildberger v. State*, 74 Md. App. 107, 536 A.2d 718 (1988).

§ 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. (1987, ch. 635, § 2.)

Protecting identity of reporters of child neglect. — The State has a rational basis for protecting reporters of child neglect, which is: To encourage reports of child neglect, concomitantly discourage incidents thereof, and simultaneously provide protection to those least able to protect themselves. Such a statutory classifi-

cation survives a constitutional challenge of denial of equal protection by persons mistakenly reported. *Freed v. Worcester County Dep't of Social Servs.*, 69 Md. App. 447, 518 A.2d 159 (1986), appeal dismissed, — U.S. —, 108 S. Ct. 49, 98 L. Ed. 2d 14 (1987).

§ 5-709. Temporary removal of child from home without court approval.

(a) *Right of entry.* — If a representative of a local department is conducting an investigation under this subtitle, the representative may enter the household, if the representative:

- (1) previously has been denied the right of entry; and
- (2) has probable cause to believe that a child is in serious, immediate danger.

(b) *Police officer to accompany representative.* — A police officer shall accompany the representative and may use reasonable force, if necessary, to enable the representative to gain entry.

(c) *Removal of child.* — The representative may remove the child temporarily, without prior approval by the juvenile court, if the representative believes that the child is in serious, immediate danger.

(d) *Examination of child.* — If a child is removed from a household under this section, the local department shall have the child thoroughly examined by a physician and a report of this examination shall be included in a report made under § 5-706 (i) of this subtitle within the time specified. (1987, ch. 635, § 2; 1989, ch. 5, § 1.)

Effect of amendment. — The 1989 amendment, approved Mar. 9, 1989, and effective from date of passage, in (d), substituted "§ 5-706 (i)" for "§ 5-706 (g)."

Removal of the child from the home

without court approval is permitted in accordance with this section and also under C.J. § 3-814. *Wildberger v. State*, 74 Md. App. 107, 536 A.2d 718 (1988).

§ 5-710. Actions by local department and State's Attorney's office.

(a) *Local department.* — Based on its findings and treatment plan, the local department shall render the appropriate services in the best interests of the child, including, when indicated, petitioning the juvenile court on behalf of

the child for appropriate relief, including the added protection to the child that either commitment or custody would provide.

(b) *State's Attorney's office.* — If a report has been made to the State's Attorney's office under § 5-706 (i) of this subtitle and the State's Attorney's office is not satisfied with the recommendation of the local department, the State's Attorney's office may petition the court, at the time of the report by the representative, to remove the child, if the State's Attorney concludes that the child is in serious physical danger and that an emergency exists. (1987, ch. 635, § 2; 1989, ch. 5, § 1.)

Effect of amendment. — The 1989 amendment, approved Mar. 9, 1989, and effective from date of passage, in (b), substituted "§ 5-706 (i)" for "§ 5-706 (g)."

§ 5-711. Access to child's medical records.

As needed by the local department as part of its investigation under this subtitle or to provide appropriate services in the best interests of the child who is the subject of a report of child abuse or neglect, upon request, the local department shall receive copies of a child's medical records from any provider of medical care. (1987, ch. 635, § 2.)

§ 5-712. Examination and treatment of abused or neglected child by physician.

(a) *Emergency medical treatment defined.* — (1) In this section "emergency medical treatment" means medical or surgical care rendered by a physician or health care institution to a child under this section:

- (i) to relieve any urgent illness or life-threatening health condition; or
- (ii) to determine the nature or extent of any abuse or neglect.

(2) "Emergency medical treatment" does not include:

- (i) nonemergency outpatient treatment; or
- (ii) periodic nonemergency health care.

(b) *Examination or treatment to determine nature and extent of abuse or neglect.* — Any physician who is licensed or authorized to practice medicine in this State shall examine or treat any child, with or without the consent of the child's parent, guardian, or custodian, to determine the nature and extent of any abuse or neglect to the child if the child is brought to the physician:

- (1) in accordance with a court order;
- (2) by a representative of a local department who states that the representative believes the child is an abused or neglected child; or
- (3) by a police officer who states that the officer believes that the child is an abused or neglected child.

(c) *Treatment permitted if emergency medical treatment indicated.* — If a physician examines a child under subsection (b) of this section and determines that emergency medical treatment is indicated, the physician may treat the child, with or without the consent of the child's parent, guardian, or custodian.

(d) *Immunity from civil liability.* — (1) A physician who examines or treats a child under this section is immune from any civil liability that may result

from the failure to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child.

(2) The immunity extends to:

(i) any health care institution with which the physician is affiliated, or to which the child is brought; and

(ii) any individual working under the control or supervision of the physician or under the control or supervision of the health care institution.

(e) *Responsibility for payment of health care charges.* — (1) In accordance with regulations adopted by the Secretary of Health and Mental Hygiene, the Department of Health and Mental Hygiene shall pay for emergency medical treatment charges that are incurred on behalf of a child who is examined or treated under this section.

(2) The child's parent or guardian is liable to the Department of Health and Mental Hygiene for the payments and shall take any steps necessary to secure health benefits available for the child from a public or private benefit program.

(3) The local department shall:

(i) immediately determine whether a child treated or examined under this section is eligible for medical assistance payments; and

(ii) secure medical assistance benefits for any eligible child examined or treated under this section.

(f) *Funds to pay for emergency medical treatment.* — To the extent possible, the Governor shall include in the annual State budget funds for the payment of emergency medical treatment for children examined or treated under this section. (1987, ch. 635, § 2.)

§ 5-713. Supervision and monitoring of household after child's return.

(a) *In general.* — If a child is removed from a household under this subtitle or by a court order, on return of the child to the household by the local department or by the action or order of any court, State's Attorney's office, or other law enforcement agency, the local department shall establish proper supervision and monitoring of the household on a regularly scheduled basis of at least once a month for at least 3 months.

(b) *Extension of monitoring period.* — The local department may extend the monitoring period. (1987, ch. 635, § 2.)

§ 5-714. Child abuse or neglect central registry — In general.

(a) *Maintenance.* — The Social Services Administration and each local department may maintain a central registry of cases reported under this subtitle.

(b) *Source of information.* — The respective local departments throughout this State shall provide the information for the central registry.

(c) *Availability of information.* — The information in the central registry shall be at the disposal of:

- (1) the protective services staff of the Social Services Administration;
- (2) the protective services staffs of local departments who are investigating a report of suspected abuse or neglect; and
- (3) law enforcement personnel who are investigating a report of suspected abuse or neglect. (1987, ch. 635, § 2.)

§ 5-715. Same — Protection of rights of person suspected of abuse or neglect.

(a) *Rules and regulations.* — The Secretary of Human Resources shall adopt regulations necessary to protect the rights of persons suspected of abuse or neglect.

(b) *Notice of entry of name in central registry.* — Before the name of a person who is suspected of abuse or neglect is entered in the central registry, the person shall be given notice.

(c) *Hearing to appeal entry of name in central registry required; exception.* — (1) Except as provided in paragraph (3) of this subsection, on request by a person suspected of abuse or neglect, the Department shall hold an administrative hearing for the purpose of allowing the person to appeal the entry of the person's name in the central registry.

(2) The hearing shall be held in the county in which the person suspected of abuse or neglect resides.

(3) The name of a person adjudicated a child abuser may be entered in the central registry without an opportunity for a hearing under this subsection.

(d) *Requirements for entry of name in central registry.* — The Department may not enter the name of a person in the central registry unless the person has:

- (1) been adjudicated a child abuser;
- (2) unsuccessfully appealed the entry of the person's name in the central registry under procedures established by the Department and this section; or
- (3) failed to respond within 15 days to notice by the Department of the Department's intent to enter the person's name in the central registry.

(e) *Removal of name from central registry.* — On request by the person, the Department shall remove the name of a person suspected of abuse or neglect from the central registry if no entry has been made for that person for 7 years before the date of the request. (1987, ch. 635, § 2.)

Cross reference. — See Revision of subtitle note to § 5-701 of this article.

*Subtitle 8. Unattended Children.***§ 5-801. Confinement in dwelling, building, enclosure, or motor vehicle.**

(a) *In general.* — A person who is charged with the care of a child under the age of 8 years may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle while the person charged is absent and the dwelling, building, enclosure, or motor vehicle is out of the sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child.

(b) *Penalties for violation.* — A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 30 days, or both. (An. Code 1957, art. 27, § 399A; 1984, ch. 296, § 2; 1986, ch. 462.)

Effect of amendment. — The 1986 amendment, effective July 1, 1986, rewrote the section.

Quoted in Carolina Freight Carriers Corp. v. Keane, 311 Md. 335, 534 A.2d 1337 (1988).

§ 5-802. Confinement in dwelling, building, or enclosure — Howard County.

Repealed by Acts 1986, ch. 462, effective July 1, 1986.

*Subtitle 9. Child Abuse.***§§ 5-901 to 5-912. Child abuse.**

Repealed by Acts 1987, ch. 635, § 1, effective July 1, 1988.

Cross reference. — As to present provisions relating to child abuse, see §§ 5-701 to 5-715 of this article.

Editor's note. — Chapter 635, Acts 1987, also repealed the subtitle heading "Subtitle 9. Child Abuse."

*Subtitle 10. Paternity Proceedings.***Part I. Definitions; Legislative Policy.****§ 5-1001. Definitions.**

Maryland Law Review. — For article, "Survey of Developments in Maryland Law, 1986-87," see 47 Md. L. Rev. 739 (1988).

Cited in Smith v. Miller, 71 Md. App. 273, 525 A.2d 245 (1987).