

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

Senate Bill 792 (Senator Kelley)
 Judicial Proceedings

Child Welfare - Reports of Children at Risk of Abuse or Neglect

This bill applies reporting and investigating requirements to children who may be at substantial risk of abuse or neglect (in addition to those children suspected of being subjected to abuse or neglect). A person must notify the local department of social services (local department) or the appropriate law enforcement agency if the person has reason to believe that a child is at substantial risk of abuse or neglect and the child is living with, is in the care or custody of, or is regularly in the presence of certain individuals as specified in the bill.

Fiscal Summary

State Effect: General fund expenditures for the Department of Human Resources (DHR) could increase \$2.0 million in FY 2008. Out-years reflect annualization, inflation, and a stable caseload. General fund expenditures in the Judiciary could increase minimally from an increase in the number of Child in Need of Assistance (CINA) petitions that could require additional judicial resources and trial time. Potential minimal increase in general fund expenditures for the Office of Administrative Hearings for additional appeals of administrative findings.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	2,013,100	2,474,700	2,600,900	2,734,500	2,876,300
Net Effect	(\$2,013,100)	(\$2,474,700)	(\$2,600,900)	(\$2,734,500)	(\$2,876,300)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in expenditures to conduct additional investigations and provide additional family services as required by the bill. Expenditures for circuit courts could increase minimally to the extent that additional CINA petitions are filed.

Small Business Effect: None.

Analysis

Bill Summary: The bill allows reports or records on child abuse or neglect to be disclosed on request to a licensed practitioner, an agency, institution, or program treating or caring for a child who is the subject of a report of substantial risk of abuse or neglect.

If a person has reason to believe that a child is at substantial risk of abuse or neglect and the child is living with, regularly in the presence of, or in the permanent or temporary care or custody of one of the individuals specified in the bill, then the person must report the substantial risk to the local department or a local law enforcement agency. The substantial risk of abuse or neglect must be reported if the individual:

- is identified in the Central Registry as an individual responsible for child abuse or neglect;
- is the parent or guardian of a child that was found to be a CINA in a proceeding on a petition that the child was abused or neglected;
- has been convicted of the crimes of child abuse, child sexual abuse, or a crime of violence against a child; or
- committed an act in another state equivalent to the aforementioned acts.

A person is not required to provide notice if: ● it would violate the attorney-client privilege established in State law; ● the notice would disclose confidential information communicated by a client to his/her attorney or other information relating to the client's representation; or ● the disclosure would violate any constitutional right to assistance of counsel.

Each health practitioner, police officer, educator, or human service worker acting in a professional capacity, who makes a report of substantial risk of child abuse or neglect, must immediately notify and make an oral and written report to the head of the institution or the designee if the worker is a staff member at a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution.

The Secretary of Human Resources must adopt regulations on eliciting information from individuals that provide a report of substantial risk of abuse or neglect and adopt regulations to define “substantial risk of abuse or neglect.”

A local department or law enforcement agency may receive a report of substantial risk of abuse or neglect. A law enforcement agency must immediately refer the report to the local department and, if requested by the local department, provide, within 48 hours, any necessary information to confirm or deny a conviction for any of the aforementioned offenses that indicate substantial risk of abuse or neglect. After confirming that the report’s allegations regarding an individual who is the subject of the report are true, the local department must thoroughly investigate the allegations. This may be done jointly with a law enforcement agency. If a subsequent report is received about an individual with a history of child abuse or neglect that alleges substantially the same facts as a report previously investigated by the local department, the local department may decline to investigate.

Within five days after receiving a substantial risk report, the local department or law enforcement agency must see the child, attempt an on-site interview with the caregiver and the individual identified with the history of abuse or neglect, and decide on the child’s safety and the safety of other children in the individual’s care and custody. An investigation must be completed within 10 days after receipt of the report, if possible; otherwise an investigation has to be completed within 60 days.

If the local department determines that the child is not safe or is at substantial risk of abuse or neglect, the local department may offer services to the family and must immediately decide whether to file a CINA petition. The child’s caregiver and the individual identified with the history of abuse or neglect must be notified within 30 days of the local department’s determination of the safety and level of risk to the child.

The bill applies the local department’s duties relating to expungement to a person who is the subject of a substantial risk report. The bill also applies the immunity from civil liability that applies to other reporters of abuse and neglect to those who make reports of substantial risk of abuse or neglect.

Current Law: Statutory requirements regarding the reporting of child abuse and neglect apply if the reporter suspects that abuse or neglect has occurred. State law does not establish reporting requirements if a reporter believes that a child may be at substantial risk of abuse or neglect.

Health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity and have reason to believe that a child has been

subjected to abuse must notify the local department of social services or the appropriate law enforcement agency. If the worker has reason to believe a child has been subjected to neglect, then that person must notify the local department. If the worker is acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, then the individual must notify the head of the institution or the designee.

In general, a person other than a health care practitioner, police officer, educator, or human service worker who has reason to believe that a child has been subjected to abuse must notify the local department of social services or the appropriate law enforcement agency. If the person has reason to believe a child has been subjected to neglect, then that person must notify the local department. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute.

Within 30 days after completion of an investigation of child abuse and neglect in which there is a finding of either indicated or unsubstantiated abuse or neglect, the local department must notify the individual alleged to have abused or neglected the child of the finding and the opportunity to appeal the finding, as specified in statute. If the finding is for indicated abuse or neglect, the individual must also be notified that he/she is subject to identification in a central registry of individuals responsible for abuse or neglect. If the finding is for unsubstantiated abuse or neglect, an individual may request a conference with a supervisor in the local department by responding to the notice within 60 days. The individual has the right to review a summary of the conference and request a contested case hearing, as provided by statute.

The local department must expunge a report of suspected abuse or neglect, all assessments, and investigative findings if the local department concludes that the report is unsubstantiated and no further reports of abuse or neglect are received during the next five years. The local department must expunge such a report within 120 days if the report is ruled out and no further reports of abuse or neglect are received during the next 120 days. DHR must automatically expunge information on an individual from the registry without a request if no entry has been made for seven years. A person who makes or participates in a report generally has immunity from civil liability, as provided in statute.

Except for identifying information, a central registry of individuals responsible for child abuse or neglect may not include information from the case file until the individual alleged responsible for abuse and neglect has been found guilty of criminal charges arising from the allegation of abuse or neglect, has unsuccessfully appealed the finding, or has failed to exercise appeal rights. The authority of DHR to identify an individual in

a central registry as responsible for abuse or neglect applies only to those individuals who have been found guilty of the criminal charge arising from the allegation or if the individual has been found responsible for the abuse or neglect and has unsuccessfully appealed the finding or failed to exercise appeal rights.

State and Local Fiscal Effect:

Judiciary: General fund expenditures could increase minimally in the Judiciary as a result of additional resources needed to address increased CINA petitions. After the local department determines that a child is at substantial risk of abuse or neglect, the local department must decide whether to file a petition alleging that the child is a CINA. Since the cases in this bill address children at risk of abuse or neglect, rather than children that are suspected of being abused or neglected, the local department may be more likely to offer services to the family, rather than petition for guardianship of children who may be at risk of abuse or neglect but have not actually experienced abuse or neglect. The Department of Legislative Services (DLS) advises that the impact of the bill's provisions is expected to be minimal.

Office of Administrative Hearings: Potential minimal increase in general fund expenditures could occur from appeals of cases that indicate substantial risk of abuse or neglect to a child.

Department of Human Resources: According to revised fiscal 2005 data (the latest data available) Child Protective Services investigated 31,501 reports of child abuse and neglect resulting in 6,196 indicated findings. The largest incidences of investigations with indicated findings occurred in the counties with large populations. For example, Baltimore City had, by far, the largest number of investigations of any local jurisdiction with 6,518 investigations and 1,802 investigations with indicated findings of abuse or neglect. Prince George's County had 3,440 investigations with 542 investigations indicating abuse or neglect. Baltimore County had 3,056 investigations with 659 investigations indicating abuse or neglect. Montgomery County had 2,989 investigations with 429 investigations indicating abuse or neglect, while Anne Arundel County had 2,965 investigations with 504 investigations indicating abuse or neglect.

On the other hand, in some jurisdictions the impact of this bill could be minimal, even negligible. While Prince George's County, which has a relatively large investigation caseload, has advised that this bill could have a fiscal impact, Montgomery County has advised that the bill could be implemented with existing resources. Harford County had 184 investigations with an indicated finding of abuse or neglect in fiscal 2006 and indicated that the bill would have no fiscal impact. Queen Anne's County completed 20

investigations and Garrett County completed 29 investigations in fiscal 2005 with indicated findings of abuse or neglect.

Based on this information, general fund expenditures could increase by \$2,013,110 in fiscal 2008, accounting for the bill's October 1, 2007 effective date. This estimate reflects the cost associated with 23 additional family service workers, 13 screening workers, and 6 supervisors to conduct investigations of households where children could be reported to be at substantial risk of abuse or neglect. The estimate includes salaries, fringe benefits, one-time start-up costs, and other ongoing operating expenses. DHR advises that fiscal 2007 expenditures for salaries and fringe benefits for child protective services workers are projected to total \$49.4 million for 783 positions.

DHR advises that the Child Welfare League of America's caseload standards indicate that a worker should handle 6 new investigations per month, for a total of 72 investigations per year. This estimate assumes that 15 family services workers would have a caseload of 72 investigations per year and would require 3 new supervisors to oversee their work. The estimate assumes that DHR could receive about 1,100 new reports for suspected risk or abuse or neglect per year. The number of reports of substantial risk of abuse or neglect could vary significantly from the estimate; nevertheless the estimate is reasonable given the multitude of factors that could impact the number of reports made.

The referrals for suspected abuse or neglect are expected to generate an increase in the caseload for in-home services. If 20% of the 1,100 referrals (or 220 referrals) warrant risk assessments or in-home services, an additional eight social service workers and one supervisor would be needed, based on Child Welfare League of America standards recommending one worker for every 12 to 15 assessment/in-home service type cases.

Thirteen screening staff and two supervisors for additional calls and research into the backgrounds of suspected individuals could also be needed. Mandated reporters would likely not have access to the background information to determine if a suspected individual meets the parameters specified in the bill; thus they would call DHR to verify the suspected person's background. The additional screeners would record the concerns of callers and research law enforcement, judicial, and social services records to determine the background of suspected persons. Two screeners would be placed in Baltimore City; one each in Anne Arundel, Baltimore, Montgomery, and Prince George's counties; and the remaining 19 jurisdictions would share seven screeners. Two supervisors would manage the new screeners.

It is also possible that some of the individuals or families that could be investigated under this bill would already be under investigation due to previous incidences of abuse or

neglect. The bill specifically provides that a local department may decline to make an investigation of a report if there was a previous report received regarding an individual with a history of child abuse or neglect that alleges substantially the same facts as were previously investigated. DHR advises that individuals responsible for violent acts toward children could be different from those found to be responsible for child abuse or neglect and added to those subject to reporting under this bill.

Positions	42
Salaries and Fringe Benefits	\$1,689,342
Travel	45,833
Office Space	66,150
Other Operating Expenses	<u>211,785</u>
Total FY 2008 State Expenditures	\$2,013,110

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) a stable caseload.

The Department of Health and Mental Hygiene and the Maryland State Department of Education advise that the requirements of the bill could be met with existing resources. The Department of State Police advises that it acts as the local police department in Carroll County only; therefore, the bill's requirements could be met with existing resources.

Additional Information

Prior Introductions: This bill is similar to HB 1474/SB 935 of 2006. Both bills were withdrawn after being heard.

Cross File: HB 1124 (Delegate Rosenberg) – Judiciary.

Information Source(s): Montgomery County, Prince George's County, Harford County, Department of Human Resources, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Maryland State Department of Education, Office of Administrative Hearings, Department of State Police, Department of Health and Mental Hygiene, Department of Legislative Services

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