

HOUSE BILL 739

P3
HB 1445/09 – APP

11r0088

By: **Chair, Appropriations Committee (By Request – Departmental – Human Resources)**

Introduced and read first time: February 10, 2011

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Assault Crisis Programs and Domestic Violence Programs – Transfer**
3 **to the Governor’s Office of Crime Control and Prevention**

4 FOR the purpose of transferring certain responsibilities for certain sexual assault
5 crisis programs and domestic violence programs from the Department of
6 Human Resources to the Governor’s Office of Crime Control and Prevention;
7 transferring certain appropriations held by the Department of Human
8 Resources to the Governor’s Office of Crime Control and Prevention;
9 establishing that this Act may not affect certain memberships or terms of office;
10 providing for the validity of certain transactions; authorizing the publishers of
11 the Annotated Code to take certain actions; providing for the continued
12 effectiveness of certain directives, duties, and responsibilities relating to the
13 functions of a sexual assault crisis program and domestic violence program;
14 transferring all functions, powers, duties, equipment, assets, and liabilities of
15 certain sexual assault crisis programs and domestic violence programs from the
16 Department of Human Resources to the Governor’s Office of Crime Control and
17 Prevention; defining a certain term; and generally relating to sexual assault
18 crisis programs and domestic violence programs.

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Procedure
21 Section 11–923
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2010 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Family Law
26 Section 4–501, 4–503, 4–515, and 4–516
27 Annotated Code of Maryland
28 (2006 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Criminal Procedure**

4 11–923.

5 (a) The General Assembly finds that an increasing number of sexual assault
6 offense victims in the State:

7 (1) lack necessary counseling and follow–up services; and

8 (2) in some parts of the State, have only the help of extremely limited
9 support services.

10 (b) The purpose of this section is to provide for sexual assault crisis programs
11 that address the special needs of sexual assault victims.

12 (c) (1) The [Department of Human Resources] **GOVERNOR’S OFFICE OF**
13 **CRIME CONTROL AND PREVENTION** shall help establish sexual assault crisis
14 programs in the State.

15 (2) The programs shall be developed and located to facilitate their use
16 by alleged victims residing in surrounding areas.

17 (3) The programs shall:

18 (i) provide specialized support services to adult and minor
19 alleged victims of sexual assault crimes; and

20 (ii) include a hotline and counseling service.

21 (d) The [Department of Human Resources] **GOVERNOR’S OFFICE OF**
22 **CRIME CONTROL AND PREVENTION** may [contract with] **AWARD GRANTS TO**
23 public or private nonprofit organizations to operate the sexual assault crisis programs.

24 **(E) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION**
25 **SHALL REGULARLY CONSULT, COLLABORATE WITH, AND CONSIDER THE**
26 **RECOMMENDATIONS OF THE FEDERALLY RECOGNIZED STATE SEXUAL ASSAULT**
27 **COALITION REGARDING SEXUAL ASSAULT CRISIS PROGRAMS AND POLICIES,**
28 **PRACTICES, AND PROCEDURES THAT IMPACT VICTIMS OF SEXUAL ASSAULT.**

29 [(e)] **(F)** Money for the sexual assault crisis programs shall be as provided
30 in the annual State budget and shall be used to supplement, but not supplant, money
31 that the programs receive from other sources.

1 **[(f)](G)** The **[Secretary of Human Resources]** **EXECUTIVE DIRECTOR OF**
2 **THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION** shall include a
3 report on the sexual assault crisis programs in the **[Department of Human Resources]**
4 **GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION** annual report to
5 the General Assembly.

6 **[(g)](H)** (1) The Governor’s Office of Crime Control and Prevention shall
7 establish and sustain child advocacy centers in the State.

8 (2) The child advocacy centers:

9 (i) may be based in private nonprofit organizations, local
10 departments of social services, local law enforcement agencies, or a partnership among
11 any of these entities;

12 (ii) shall be developed and located to facilitate their use by
13 alleged victims residing in the surrounding areas;

14 (iii) shall investigate allegations of sexual crimes against
15 children and sexual abuse of minors;

16 (iv) shall provide or facilitate referrals to appropriate
17 counseling, legal, medical, and advocacy services for victims; and

18 (v) shall be included in all joint investigation procedures
19 developed in accordance with § 5–706 of the Family Law Article.

20 (3) The Governor’s Office of Crime Control and Prevention may
21 contract with public or private nonprofit organizations to operate child advocacy
22 centers.

23 (4) Money for child advocacy centers shall be as provided in the
24 annual State budget and shall be used to supplement, but not supplant, money that
25 the programs receive from other sources.

26 (5) On or before January 1 each year, the Governor’s Office of Crime
27 Control and Prevention shall submit an annual report, in accordance with § 2–1246 of
28 the State Government Article, on child advocacy centers to the General Assembly.

29 **Article – Family Law**

30 4–501.

31 (a) In this subtitle the following words have the meanings indicated.

32 (b) (1) “Abuse” means any of the following acts:

- 1 (i) an act that causes serious bodily harm;
- 2 (ii) an act that places a person eligible for relief in fear of
3 imminent serious bodily harm;
- 4 (iii) assault in any degree;
- 5 (iv) rape or sexual offense under §§ 3–303 through 3–308 of the
6 Criminal Law Article or attempted rape or sexual offense in any degree;
- 7 (v) false imprisonment; or
- 8 (vi) stalking under § 3–802 of the Criminal Law Article.

9 (2) If the person for whom relief is sought is a child, “abuse” may also
10 include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this
11 subtitle shall be construed to prohibit reasonable punishment, including reasonable
12 corporal punishment, in light of the age and condition of the child, from being
13 performed by a parent or stepparent of the child.

14 (3) If the person for whom relief is sought is a vulnerable adult,
15 “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1
16 of this article.

17 (c) “Child care provider” means a person that provides supervision and care
18 for a minor child.

19 (d) “Cohabitant” means a person who has had a sexual relationship with the
20 respondent and resided with the respondent in the home for a period of at least 90
21 days within 1 year before the filing of the petition.

22 (e) “Commissioner” means a District Court Commissioner appointed in
23 accordance with Article IV, § 41G of the Maryland Constitution.

24 (f) “Court” means the District Court or a circuit court in this State.

25 (g) “Emergency family maintenance” means a monetary award given to or for
26 a person eligible for relief to whom the respondent has a duty of support under this
27 article based on:

28 (1) the financial needs of the person eligible for relief; and

29 (2) the resources available to the person eligible for relief and the
30 respondent.

31 **(H) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF**
32 **THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.**

1 **[(h)] (I)** “Final protective order” means a protective order issued under §
2 4–506 of this subtitle.

3 **[(i)] (J)** “Home” means the property in this State that:

4 (1) is the principal residence of a person eligible for relief; and

5 (2) is owned, rented, or leased by the person eligible for relief or
6 respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an
7 adult living in the home at the time of a proceeding under this subtitle.

8 **[(j)] (K)** “Interim protective order” means an order that a Commissioner
9 issues under this subtitle pending a hearing by a judge on a petition.

10 **[(k)] (L)** “Local department” means the local department that has
11 jurisdiction in the county:

12 (1) where the home is located; or

13 (2) if different, where the abuse is alleged to have taken place.

14 **[(l)] (M)** “Person eligible for relief” includes:

15 (1) the current or former spouse of the respondent;

16 (2) a cohabitant of the respondent;

17 (3) a person related to the respondent by blood, marriage, or adoption;

18 (4) a parent, stepparent, child, or stepchild of the respondent or the
19 person eligible for relief who resides or resided with the respondent or person eligible
20 for relief for at least 90 days within 1 year before the filing of the petition;

21 (5) a vulnerable adult; or

22 (6) an individual who has a child in common with the respondent.

23 **[(m)] (N)** (1) “Petitioner” means an individual who files a petition.

24 (2) “Petitioner” includes:

25 (i) a person eligible for relief; or

26 (ii) the following persons who may seek relief from abuse on
27 behalf of a minor or vulnerable adult:

1 1. the State’s Attorney for the county where the child or
2 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

3 2. the department of social services that has jurisdiction
4 in the county where the child or vulnerable adult lives, or, if different, where the abuse
5 is alleged to have taken place;

6 3. a person related to the child or vulnerable adult by
7 blood, marriage, or adoption; or

8 4. an adult who resides in the home.

9 [(n)] (O) “Residence” includes the yard, grounds, outbuildings, and common
10 areas surrounding the residence.

11 [(o)] (P) “Respondent” means the person alleged in the petition to have
12 committed the abuse.

13 [(p)] (Q) “Temporary protective order” means a protective order issued
14 under § 4–505 of this subtitle.

15 [(q)] (R) “Victim” includes a person eligible for relief.

16 [(r)] (S) “Vulnerable adult” has the meaning provided in § 14–101(q) of this
17 article.

18 4–503.

19 (a) A law enforcement officer who responds to a request for help under §
20 4–502 of this Part I of this subtitle shall give the victim a written notice that:

21 (1) includes the telephone number of a local domestic violence
22 program that receives funding from the [Department of Human Resources]
23 **GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION**; and

24 (2) states that:

25 (i) the victim may request that a District Court commissioner
26 file a criminal charging document against the alleged abuser;

27 (ii) if the commissioner declines to charge the alleged abuser,
28 the victim may request that the State’s Attorney file a criminal charging document
29 against the alleged abuser;

30 (iii) the victim may file in the District Court or a circuit court or,
31 when neither the office of the clerk of the circuit court nor the Office of the District
32 Court Clerk is open, with a commissioner, a petition under this subtitle; and

1 (iv) the victim may obtain a copy of the incident report, as
2 provided under § 4–503.1 of this Part I of this subtitle.

3 (b) A law enforcement officer may not be held liable in a civil action that
4 arises from the officer’s failure to provide the notice required under subsection (a) of
5 this section.

6 4–515.

7 (a) (1) The [Secretary] **EXECUTIVE DIRECTOR** shall establish a program
8 in the [Department of Human Resources] **GOVERNOR’S OFFICE OF CRIME**
9 **CONTROL AND PREVENTION** to help victims of domestic violence and their children.

10 (2) The purpose of the program is to provide for victims of domestic
11 violence and their children, in each region of this State:

12 (i) temporary shelter or help in obtaining shelter;

13 (ii) counseling;

14 (iii) information;

15 (iv) referral; and

16 (v) rehabilitation.

17 (b) As a part of the domestic violence program, there shall be, in a major
18 population center of this State, at least 1 program serving the area.

19 (c) Any program established under this section shall be subject to the
20 following conditions:

21 (1) the program shall provide victims of domestic violence and their
22 children with a temporary home and necessary counseling;

23 (2) the [Department of Human Resources] **GOVERNOR’S OFFICE OF**
24 **CRIME CONTROL AND PREVENTION** shall:

25 (i) supervise the program;

26 (ii) set standards of care and admission policies;

27 (iii) monitor the operation of the program and annually evaluate
28 the effectiveness of the program; [and]

1 (iv) adopt rules and regulations that set fees for services at and
2 govern the operation of each program; AND

3 (v) REGULARLY CONSULT, COLLABORATE WITH, AND
4 CONSIDER THE RECOMMENDATIONS OF THE FEDERALLY RECOGNIZED STATE
5 DOMESTIC VIOLENCE COALITION REGARDING DOMESTIC VIOLENCE PROGRAMS
6 AND POLICIES, PRACTICES, AND PROCEDURES THAT IMPACT VICTIMS OF
7 DOMESTIC VIOLENCE AND THEIR CHILDREN;

8 (3) the program shall accept from the police or any other referral
9 source in the community any victim of domestic violence and the child of any victim of
10 domestic violence; and

11 (4) housing may not be provided under this subtitle to an applicant for
12 housing who is not a resident of this State at the time the application for housing is
13 made.

14 (d) (1) As funds become available, the [Secretary] EXECUTIVE
15 DIRECTOR may extend the domestic violence program to other areas in this State.

16 (2) Expansion of the domestic violence program may include:

17 (i) establishing additional shelters; or

18 (ii) providing funds and technical assistance to a local
19 organization or agency that shows that it is able and willing to run a domestic violence
20 program.

21 4–516.

22 (a) Subject to § 2–1246 of the State Government Article, the [Secretary]
23 EXECUTIVE DIRECTOR shall submit to the General Assembly a report on the
24 domestic violence program annually.

25 (b) In addition to receiving funds from the annual budget, the [Secretary]
26 EXECUTIVE DIRECTOR shall attempt to secure funding, including in-kind
27 contributions, for the establishment and operation of the domestic violence program
28 from:

29 (1) the federal government;

30 (2) local governments; and

31 (3) private sources.

1 SECTION 2. AND BE IT FURTHER ENACTED, That certain appropriations
2 held by the Department of Human Resources to carry out the functions and programs
3 transferred under this Act shall be transferred to the Governor's Office of Crime
4 Control and Prevention on the effective date of this Act.

5 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act
6 affects the terms of office of an appointed or elected member of any division, board,
7 commission, authority, council, committee, office, or unit. An individual who is a
8 member of a division, board, commission, authority, council, committee, office, or unit
9 on the effective date of this Act shall remain a member for the balance of the term to
10 which the member is appointed or elected, unless the member sooner dies, resigns, or
11 is removed under provisions of law.

12 SECTION 4. AND BE IT FURTHER ENACTED, That, except as expressly
13 provided to the contrary in this Act, any transaction affected by or flowing from any
14 statute here amended, repealed, or transferred, and validly entered into before the
15 effective date of this Act, and every right, duty, or interest following from the
16 transaction, remains valid after the effective date of this Act and may be terminated,
17 completed, consummated, or enforced pursuant to law.

18 SECTION 5. AND BE IT FURTHER ENACTED, That the publisher of the
19 Annotated Code of Maryland, in consultation with and subject to the approval of the
20 Department of Legislative Services, shall correct, with no further action required by
21 the General Assembly, cross-references and terminology rendered incorrect by this
22 Act or by any other Act of the General Assembly of 2011 that affects provisions
23 enacted by this Act. The publishers shall adequately describe any such correction in an
24 editor's note following the section affected.

25 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
26 provided by law, all existing laws, rules and regulations, proposed rules and
27 regulations, standards and guidelines, policies, orders and other directives, forms,
28 plans, memberships, contracts, property, investigations, administrative and judicial
29 responsibilities, rights to sue and be sued, and all other duties and responsibilities
30 associated with the functions of the sexual assault crisis programs and domestic
31 violence programs located within the Department of Human Resources, prior to the
32 effective date of this Act shall continue in effect under the Department of Human
33 Resources until completed, withdrawn, canceled, modified, or otherwise changed
34 pursuant to law.

35 SECTION 7. AND BE IT FURTHER ENACTED, That on July 1, 2011, all the
36 functions, powers, duties, equipment, assets, and liabilities of the sexual assault crisis
37 programs and domestic violence programs within the Department of Human
38 Resources shall be transferred to the Governor's Office of Crime Control and
39 Prevention.

40 SECTION 8. AND BE IT FURTHER ENACTED, That this Act shall take effect
41 July 1, 2011.