

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 22, 2011

CHAPTER _____

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; clarifying language; defining a certain term; and generally relating
18 to sexual assault 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)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Family Law
3 Section 4–501, 4–503, 4–515, and 4–516
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2010 Supplement)

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

8 **Article – Criminal Procedure**

9 11–923.

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

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

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

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

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

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

22 (3) The programs shall:

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

25 (ii) include a hotline and counseling service.

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

29 **(E) THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION**
30 **SHALL REGULARLY CONSULT, COLLABORATE WITH, AND CONSIDER THE**
31 **RECOMMENDATIONS OF THE FEDERALLY RECOGNIZED STATE SEXUAL ASSAULT**

1 COALITION REGARDING SEXUAL ASSAULT CRISIS PROGRAMS AND POLICIES,
2 PRACTICES, AND PROCEDURES THAT IMPACT VICTIMS OF SEXUAL ASSAULT.

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

6 [(f)] (G) The [Secretary of Human Resources] EXECUTIVE DIRECTOR OF
7 THE GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION shall include a
8 report on the sexual assault crisis programs in the [Department of Human Resources]
9 ANNUAL REPORT SUBMITTED BY THE GOVERNOR'S OFFICE OF CRIME
10 CONTROL AND PREVENTION ~~annual report~~ to the General Assembly, IN
11 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE.

12 [(g)] (H) (1) The Governor's Office of Crime Control and Prevention shall
13 establish and sustain child advocacy centers in the State.

14 (2) The child advocacy centers:

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

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

20 (iii) shall investigate allegations of sexual crimes against
21 children and sexual abuse of minors;

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

24 (v) shall be included in all joint investigation procedures
25 developed in accordance with § 5-706 of the Family Law Article.

26 (3) The Governor's Office of Crime Control and Prevention may
27 contract with public or private nonprofit organizations to operate child advocacy
28 centers.

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

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

1 **Article – Family Law**

2 4–501.

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

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

5 (i) an act that causes serious bodily harm;

6 (ii) an act that places a person eligible for relief in fear of
7 imminent serious bodily harm;

8 (iii) assault in any degree;

9 (iv) rape or sexual offense under §§ 3–303 through 3–308 of the
10 Criminal Law Article or attempted rape or sexual offense in any degree;

11 (v) false imprisonment; or

12 (vi) stalking under § 3–802 of the Criminal Law Article.

13 (2) If the person for whom relief is sought is a child, “abuse” may also
14 include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this
15 subtitle shall be construed to prohibit reasonable punishment, including reasonable
16 corporal punishment, in light of the age and condition of the child, from being
17 performed by a parent or stepparent of the child.18 (3) If the person for whom relief is sought is a vulnerable adult,
19 “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1
20 of this article.21 (c) “Child care provider” means a person that provides supervision and care
22 for a minor child.23 (d) “Cohabitant” means a person who has had a sexual relationship with the
24 respondent and resided with the respondent in the home for a period of at least 90
25 days within 1 year before the filing of the petition.26 (e) “Commissioner” means a District Court Commissioner appointed in
27 accordance with Article IV, § 41G of the Maryland Constitution.

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

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

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

5 (2) the resources available to the person eligible for relief and the
6 respondent.

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

9 **[(h)] (I)** “Final protective order” means a protective order issued under §
10 4–506 of this subtitle.

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

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

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

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

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

20 (1) where the home is located; or

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

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

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

24 (2) a cohabitant of the respondent;

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

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

29 (5) a vulnerable adult; or

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

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

3 (2) “Petitioner” includes:

4 (i) a person eligible for relief; or

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

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

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

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

14 4. an adult who resides in the home.

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

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

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

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

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

24 4–503.

25 (a) A law enforcement officer who responds to a request for help under §
26 4–502 of this Part I of this subtitle shall give the victim a written notice that:

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

1 (2) states that:

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

4 (ii) if the commissioner declines to charge the alleged abuser,
5 the victim may request that the State's Attorney file a criminal charging document
6 against the alleged abuser;

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

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

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

15 4-515.

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

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

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

22 (ii) counseling;

23 (iii) information;

24 (iv) referral; and

25 (v) rehabilitation.

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

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

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

3 (2) the [Department of Human Resources] **GOVERNOR'S OFFICE OF**
4 **CRIME CONTROL AND PREVENTION** shall:

5 (i) supervise the program;

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

7 (iii) monitor the operation of the program and annually evaluate
8 the effectiveness of the program; [and]

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

11 **(V) REGULARLY CONSULT, COLLABORATE WITH, AND**
12 **CONSIDER THE RECOMMENDATIONS OF THE FEDERALLY RECOGNIZED STATE**
13 **DOMESTIC VIOLENCE COALITION REGARDING DOMESTIC VIOLENCE PROGRAMS**
14 **AND POLICIES, PRACTICES, AND PROCEDURES THAT IMPACT VICTIMS OF**
15 **DOMESTIC VIOLENCE AND THEIR CHILDREN;**

16 (3) the program shall accept from the police or any other referral
17 source in the community any victim of domestic violence and the child of any victim of
18 domestic violence; and

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

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

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

25 (i) establishing additional shelters; or

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

29 4-516.

30 (a) Subject to § 2-1246 of the State Government Article, the [Secretary]
31 **EXECUTIVE DIRECTOR** shall submit to the General Assembly a report on the
32 domestic violence program annually.

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

5 (1) the federal government;

6 (2) local governments; and

7 (3) private sources.

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

12 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act
13 affects the terms of office of an appointed or elected member of any division, board,
14 commission, authority, council, committee, office, or unit. An individual who is a
15 member of a division, board, commission, authority, council, committee, office, or unit
16 on the effective date of this Act shall remain a member for the balance of the term to
17 which the member is appointed or elected, unless the member sooner dies, resigns, or
18 is removed under provisions of law.

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

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

32 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
33 provided by law, all existing laws, rules and regulations, proposed rules and
34 regulations, standards and guidelines, policies, orders and other directives, forms,
35 plans, memberships, contracts, property, investigations, administrative and judicial
36 responsibilities, rights to sue and be sued, and all other duties and responsibilities
37 associated with the functions of the sexual assault crisis programs and domestic
38 violence programs located within the Department of Human Resources, prior to the

1 effective date of this Act shall continue in effect under the Department of Human
2 Resources until completed, withdrawn, canceled, modified, or otherwise changed
3 pursuant to law.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.