

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 7

(Delegate Sophocleus)

Judiciary

**Family Law - Child Abuse and Neglect - Expungement of Reports and Records -
Time Period**

This bill alters the time period after which a local department of social services is required to expunge specified reports and records of suspected child abuse and neglect. Unless the report is indicated or the local department has received additional reports, the local department must maintain a report of suspected abuse or neglect and all assessments and investigative findings for at least five years after the date of referral if the report is unsubstantiated or ruled out and no further reports of abuse or neglect are received during the five years. The local departments must expunge a report of suspected abuse or neglect and all assessments and investigative findings after the expiration of this time period.

Fiscal Summary

State Effect: The Department of Human Resources (DHR) can handle the bill's requirements using existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: After receiving a report of suspected abuse or neglect of a child who lives in Maryland that is alleged to have occurred in the State, the local department of social services and/or the appropriate law enforcement agency must promptly investigate the report to protect the health, safety, and welfare of the child or children. Within 24 hours after receiving a report of suspected physical or sexual child abuse, and within five days

after receiving a report of suspected child neglect or mental injury, the local department or law enforcement agency must (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 and of other children in the household; and (4) decide on the safety of the other children in the care or custody of the alleged abuser. The determinations and assessments that are required during an abuse or neglect investigation are specified in statute. Reports of child abuse and neglect may also be referred for an alternative response in specified circumstances. An alternative response does not include an investigation or a formal determination as to whether child abuse or neglect has occurred.

The local State's Attorney must assist in a child abuse or neglect investigation if requested to do so by a local department of social services. To the extent possible, a child abuse or neglect investigation must be completed within 10 days after receiving the notice of the suspected abuse or neglect. Within 10 days after receiving the first notice of suspected abuse or neglect of a child, the local department of social services or law enforcement agency must report the preliminary investigation findings to the local State's Attorney. Within 5 business days after the investigation is completed, the local department and the law enforcement agency, if the law enforcement agency participated in the investigation, must make a complete written report of findings to the local State's Attorney.

If the report is "ruled out" (a finding that abuse, neglect, or sexual abuse did not occur), and no further reports are received during the next 120 days, the local department must expunge the report and all assessments and investigative findings within 120 days after the date of referral.

The local department must expunge a report of suspected abuse or neglect, all assessments, and investigative findings, within five years after the date of referral, if the local department concludes that the report is "unsubstantiated" (a finding that there is insufficient evidence to support a finding of indicated or ruled out) and no further reports of abuse or neglect are received during the next five years.

"Indicated" is a finding that there is credible evidence, which has not been satisfactorily refuted, that abuse, neglect, or sexual abuse did occur. Within 30 days after completion of an investigation of child abuse or 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 being identified as responsible for abuse or neglect in the centralized confidential database maintained by DHR. 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. In response to a timely request for a conference, the supervisor must schedule a conference to allow

the individual an opportunity to review the redacted record and request corrections or to supplement the record. The individual has the right to review a summary of the conference and request a contested case hearing, as provided by statute.

Reports and records concerning child abuse and neglect are confidential and may not be disclosed unless permitted by one of a number of statutory exceptions. An unauthorized disclosure is a misdemeanor subject to imprisonment not exceeding 90 days and/or a fine not exceeding \$500.

Background: DHR indicates that multiple reports pertaining to the same alleged child abuse or neglect are common, and that reports may be made by different individuals over the period of several months. It advises that a family's needs may become more apparent if there have been multiple reports made over the course of a period longer than 120 days. Due to the current expungement requirements, DHR cannot always determine whether a specific allegation has already been investigated. Workers without access to a family's history or the ability to determine whether there has been *any* prior contact with a family must make decisions based on current observations without the context available from prior reports, assessments, or investigations concerning that family. This can result in families being investigated multiple times for the same allegation, even when a local department has already investigated the allegation and found it to be false.

Additional Information

Prior Introductions: SB 12 of 2015 passed the Senate with amendments and the House with amendments. Its cross file, HB 7, passed the House with amendments and the Senate with amendments. However, the chambers were unable to reconcile their versions of the bills. SB 1055 of 2014, a similar bill, passed the Senate but received no further action in the House.

Cross File: SB 31 (Senator DeGrange) - Judicial Proceedings.

Information Source(s): Department of Human Resources, Department of Legislative Services

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md/jc

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