

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 838
Judiciary

(Delegate Valentino-Smith, *et al.*)

Child Protection - Reporting - Threat of Harm

This bill authorizes an individual to notify a local department of social services or the appropriate law enforcement agency if the individual has reason to believe that (1) a verbal threat of imminent severe bodily harm or death to a child has been made by a child's parent or other person who has permanent or temporary care, custody, or responsibility for supervision of the child and (2) the child is at substantial risk of abuse. The bill generally extends procedures relating to the reporting and investigation of a substantial risk of sexual abuse to reports concerning a substantial risk of abuse. The bill also expands existing provisions relating to immunity from civil liability to include reports regarding a substantial risk of abuse.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State government operations or finances, as discussed below.

Local Effect: The bill is not generally anticipated to materially affect local finances or operations, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, an individual may notify the local department of social services or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the presence of an individual, other than the child's parent or guardian, who (1) is registered on the sexual offender registry based on the commission of an offense

against a child and (2) poses a substantial risk of sexual abuse to the child, based on additional information. An individual may make an oral or written report.

To the extent reasonably possible, an individual who makes a report regarding a substantial risk of sexual abuse must include information about the child, the child's parents or caregivers, the child's whereabouts, the nature and extent of the substantial risk, including any evidence or information available concerning possible previous instances of sexual abuse, and any other information that would help to determine the cause of the substantial risk of sexual abuse and the individual responsible. If the person making the report is acting as a staff member at a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, the individual must immediately notify and give all required information to the head of the institution or to that individual's designee. The bill generally extends these provisions to reports of a substantial risk of abuse but specifies that, for reports of a substantial risk of abuse, the report should include, to the extent possible, any evidence or information available to the reporter concerning possible previous instances of abuse.

Under current law, a local department or law enforcement agency may receive a report of substantial risk of sexual abuse. The bill authorizes a local department or a law enforcement agency to also receive a report regarding a substantial risk of abuse. If a law enforcement agency receives a report, the agency must immediately refer the report to the local department. Within five days after receiving a substantial risk of sexual abuse report, the local department and law enforcement agency must see the child and attempt an on-site interview with the caregiver and the registered individual. The bill establishes that, for substantial risk of abuse reports, the local department and law enforcement must see the child and attempt to have an on-site interview with the individual alleged to have made the threat of harm. The bill also extends the requirement for a local department and law enforcement to decide on the safety and the level of risk to the child and other children in the care or custody of the individual alleged to have made the threat of harm to the child.

Under current law, a local department that receives a report regarding a substantial risk of sexual abuse must conduct a thorough investigation after confirming that the allegations in the report regarding the individual's history of sexual abuse are accurate, and that there is specific information that the child is at substantial risk of sexual abuse. The bill expands these provisions to include substantial risk of abuse. The investigation must be conducted in conjunction with an appropriate law enforcement agency. As part of the investigation, the local department must (1) determine whether the child is safe; (2) determine whether sexual abuse of the child has occurred; (3) offer appropriate services to the family; and (4) immediately decide whether to file a Child in Need of Assistance (CINA) petition. The bill establishes that, as part of the investigation, the local department must also determine whether abuse of the child has occurred. To the extent possible, an investigation must be completed as soon as practicable but no later than 30 days after receipt of a report.

The bill also requires the Secretary of Human Services to adopt regulations governing the definition of “substantial risk of abuse,” and how staff in a local department should elicit information when receiving such a report.

Child Abuse and Neglect – Reporting Requirements

Pursuant to current law, health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who have reason to believe that a child has been subjected to abuse or neglect, must notify the local department of social services or the appropriate law enforcement agency. An “educator or human service worker” includes any teacher, counselor, social worker, caseworker, and parole or probation officer.

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 or neglect must notify the local department of social services or the appropriate law enforcement agency. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute.

Individuals who in good faith make or participate in making a report of abuse or neglect or participate in an investigation or resulting judicial proceeding are immune from civil liability or criminal penalties.

Statutory provisions specify a process for the investigation of child abuse and neglect reports.

State/Local Fiscal Effect: The bill appears to authorize a new reporting category; for purposes of this analysis, however, it is assumed that many individuals who are likely to elect to report a threat of imminent harm and/or a substantial risk of abuse under this bill may already be likely to report such incidents under current law, thus negating the need for additional resources. To the extent that more incidents are reported, it is assumed that additional investigations, as well as potential actions resulting from information learned during the investigations, such as additional CINA petitions, do not materially impact the workload of the Judiciary, circuit courts, law enforcement agencies, or the Department of Human Services.

Although Montgomery County advises that the bill may necessitate additional resources for increased investigations, it is assumed that the majority of jurisdictions can handle the bill’s requirements with existing resources.

Additional Information

Prior Introductions: HB 1321 of 2017, as amended, passed the House but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 1326 of 2017, a similar bill, received a hearing in the House Judiciary Committee, but was subsequently withdrawn. HB 825 of 2016, a similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 577, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 584 (Senator Ramirez) - Judicial Proceedings.

Information Source(s): Baltimore City; Montgomery County; City of Takoma Park; Maryland State Department of Education; Department of Human Services; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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