

SENATE BILL 267

D4
HB 670/20 – JUD

(PRE-FILED)

1lr0084

By: **Chair, Judicial Proceedings Committee (By Request – Departmental – Human Services)**

Requested: September 29, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Investigation of Suspected Child Abuse and Neglect – Preliminary**
3 **Report to State’s Attorney**

4 FOR the purpose of repealing the requirement that a local department of social services or
5 law enforcement agency provide a local State’s Attorney with a certain report of the
6 preliminary findings of an investigation of suspected child abuse or neglect within a
7 certain period of time; and generally relating to the investigation and reporting of
8 suspected child abuse and neglect.

9 BY repealing

10 Article – Family Law
11 Section 5–706(i)
12 Annotated Code of Maryland
13 (2019 Replacement Volume and 2020 Supplement)

14 BY repealing and reenacting, with amendments,

15 Article – Family Law
16 Section 5–706(j) through (t)
17 Annotated Code of Maryland
18 (2019 Replacement Volume and 2020 Supplement)

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

21 **Article – Family Law**

22 5–706.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **[(i)]** **(I)** Within 10 days after the local department or law enforcement agency receives
2 the first notice of suspected abuse of a child who lives in this State that is alleged to have
3 occurred in this State, the local department or law enforcement agency shall report to the
4 local State's Attorney the preliminary findings of the investigation.]

5 **[(j)]** **(I)** Within 5 business days after completion of the investigation of
6 suspected abuse of a child who lives in this State that is alleged to have occurred in this
7 State, the local department and the appropriate law enforcement agency, if that agency
8 participated in the investigation, shall make a complete written report of its findings to the
9 local State's Attorney.

10 **[(k)]** **(J)** Promptly after receiving a report of suspected abuse or neglect of a child
11 who lives in this State that is alleged to have occurred outside of this State, the local
12 department shall:

13 (1) forward the report to the appropriate agency outside of this State that
14 is authorized to receive and investigate reports of suspected abuse or neglect;

15 (2) cooperate to the extent requested with the out-of-state agency
16 investigating the report; and

17 (3) if determined appropriate by the local department:

18 (i) interview the child to assess whether the child is safe; and

19 (ii) provide services to the child and the child's family.

20 **[(l)]** **(K)** Notwithstanding the provisions of this section, the Secretary may
21 implement an alternative response program for selected reports of abuse or neglect.

22 **[(m)]** **(L)** (1) The Department shall convene a multidisciplinary alternative
23 response advisory council.

24 (2) The advisory council shall consist of the following members:

25 (i) the Secretary of Human Services, or the Secretary's designee;

26 (ii) the Secretary of Health, or the Secretary's designee;

27 (iii) the State Superintendent of Schools, or the Superintendent's
28 designee;

29 (iv) a representative from the Maryland Disability Law Center;

30 (v) a representative from a child advocacy organization;

1 (vi) a representative from a community partner or a local service
2 provider;

3 (vii) a pediatrician with experience in diagnosing and treating
4 injuries related to abuse and neglect;

5 (viii) an attorney with experience representing children or adults in
6 abuse and neglect cases;

7 (ix) a representative from the Office of the Public Defender;

8 (x) a parent or guardian who has personal experience with the child
9 protective services system;

10 (xi) a child who has personal experience with the child protective
11 services system;

12 (xii) two representatives from local departments of social services;
13 and

14 (xiii) two representatives from local citizens review panels.

15 (3) The Secretary of Human Services or the Secretary's designee shall be
16 the chair of the advisory council.

17 (4) The advisory council shall advise the Department on:

18 (i) the development of the alternative response implementation
19 plan, which may include a pilot program;

20 (ii) oversight and monitoring of the alternative response
21 implementation plan;

22 (iii) consulting with local citizens review panels, local services
23 affiliates, and other local partners for feedback and recommendations on the alternative
24 response implementation plan;

25 (iv) defining the scope of the independent evaluation of the
26 implementation of the alternative response program; and

27 (v) defining the scope of the ongoing evaluation of the alternative
28 response program.

29 [(n)] (M) Only a low risk report of abuse or neglect may be considered for an
30 alternative response.

31 [(o)] (N) A report that is not assigned for an alternative response shall be

1 assigned for investigation in accordance with this section.

2 **[(p)] (O)** The following reports of suspected abuse or neglect may not be assigned
3 for an alternative response:

4 (1) sexual abuse; and

5 (2) abuse or neglect:

6 (i) occurring in an out-of-home placement;

7 (ii) resulting in death or serious physical or mental injury;

8 (iii) if, in the previous 3 years, the individual suspected of abuse or
9 neglect has been identified as responsible for abuse or neglect as documented in the records
10 of the local department; or

11 (iv) if the individual suspected of abuse or neglect has had one report
12 assigned for an alternative response within the past 12 months or two reports assigned for
13 an alternative response within the past 24 months.

14 **[(q)] (P)** A report assigned for an alternative response may be reassigned at any
15 time for an immediate investigation based on any of the following factors and
16 circumstances:

17 (1) a reassessment of the report or relevant facts;

18 (2) a determination that the case satisfies a criterion in subsection **[(p)] (O)**
19 of this section; or

20 (3) a family's inability or refusal to participate in the alternative response
21 assessment.

22 **[(r)] (Q)** A report assigned for an investigation may be reassigned for an
23 alternative response at any time based on:

24 (1) a reassessment of the report or relevant facts that demonstrate that the
25 case meets the criteria for an alternative response;

26 (2) a determination that accepted services would address all issues of risk
27 of abuse or neglect and child safety; and

28 (3) approval by a caseworker supervisor.

29 **[(s)] (R)** When a report is referred for an alternative response, the local
30 department shall:

- 1 (1) see the child and the child’s parent or primary caretaker within 24
2 hours of receiving a report of physical abuse;
- 3 (2) see the child and the child’s parent or primary caretaker within 5 days
4 of receiving a report of neglect;
- 5 (3) attempt to have an on–site interview with the child’s parent or primary
6 caretaker;
- 7 (4) evaluate the child’s home environment;
- 8 (5) decide on the safety of the child, wherever the child is, and of other
9 children in the household;
- 10 (6) decide on the safety of other children in the care or custody of the
11 individual suspected of abuse or neglect;
- 12 (7) advise the appropriate law enforcement agency that the report has been
13 assigned for an alternative response, if the law enforcement agency made the report of
14 abuse or neglect;
- 15 (8) inform the individual suspected of child abuse or neglect of the
16 allegations made against the individual in a manner consistent with laws protecting the
17 rights of the person who made the report;
- 18 (9) complete an alternative response assessment within 60 days after the
19 receipt of the report;
- 20 (10) within 10 days after completing the alternative response assessment,
21 provide a written report to the family members who are participating in the alternative
22 response assessment as to whether and what services are necessary to address:
- 23 (i) the safety of the child or other children in the household; and
- 24 (ii) the risk of subsequent abuse or neglect; and
- 25 (11) consistent with the assessment and any safety or services plans:
- 26 (i) render any appropriate services in the best interests of the child;
- 27 (ii) refer the family or child for additional services; or
- 28 (iii) as necessary for the safety of the child or other children in the
29 household, establish a plan to monitor the safety plan and the provision or completion of
30 appropriate services.

31 [(t)] (S) The local department:

1 (1) shall:

2 (i) maintain complete records related to an alternative response and
3 services for 3 years after the report was received if there is no subsequent child welfare
4 involvement; and

5 (ii) expunge complete records related to an alternative response and
6 services if there is no subsequent child welfare involvement after 3 years;

7 (2) may not use or disclose records related to an alternative response for
8 purposes of responding to a request for background information for employment or
9 voluntary services; and

10 (3) shall protect from disclosure records related to an alternative response
11 in accordance with § 1–202 of the Human Services Article.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2021.