

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 1349
Judiciary

(Delegate Pitkin, *et al.*)

Child Abuse Reform Act of 2002

This bill alters provisions relating to judicial disposition of child abuse cases. It imposes a civil penalty on certain workers for failure to report child abuse, establishes a local citizens review panel to review local departments of social services, and alters custody arrangements pursuant to findings of abuse or evidence of child abuse.

Fiscal Summary

State Effect: The bill's requirements could be met with existing budgeted resources. The bill's civil penalty provisions are not expected to have a significant impact on State finances.

Local Effect: Potential significant increase in expenditures for formation of citizen review panels. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: This bill alters provisions relating to child abuse by repealing provisions relating to hearings and conferences in the event of indicated or unsubstantiated findings of abuse or neglect. The bill requires each judge assigned to handle children in need of assistance (CINA) and children in need of supervision (CINS) cases to attend a child abuse update seminar at least once each year. The seminar must include the latest information identifying best practices, at-risk children, improvement of child questioning

and testimony, what judges should know about early childhood detention, and the correlation between child abuse and domestic violence.

For health practitioners, police officers, educators, or human service workers in their professional capacities who fail to report suspected child abuse, the bill imposes a maximum civil fine of \$500 for each violation.

Local governments are required to establish a local citizens review panel to review the local department of social services' written report and findings upon completion of an investigation of suspected child abuse. Members and the chairman are appointed by the local jurisdiction. The panel must contain specified individuals. The panel must evaluate the extent to which State and local agencies are effectively fulfilling their responsibilities to meet child protection standards and criteria. The panel must investigate any complaints regarding the local department and the failure of employees to adhere to standards for investigation of suspected child abuse. The panel must investigate three or more reports of suspected child abuse involving a child under ten years of age. If the panel finds that a local department employee or supervisor failed to follow child protection standards, the local department must reprimand the employee, suspend the employee without pay, place the employee on probation, or require the employee to attend a policy development seminar on the proper investigation of child abuse. If a local panel finds that a local department employee failed to follow child protection provisions on more than three occasions, the local department is required to terminate the employee.

In a custody or visitation proceeding in which abuse or neglect by a party has been alleged, the court is required to preserve for review the material facts relied upon for the court's order and how child protection provisions were applied to the case. A court is prohibited from granting custody or unsupervised visitation to a parent who has, within the seven years prior to the filing of the custody or visitation proceeding, been found to have committed abuse or credible evidence of substance abuse. The court must find that any level of violence or abuse is detrimental to the child. If a party appeals an order to modify custody, the court must stay the order under appeal if the order awards custody to an alleged child abuser.

Current Law: In every county, one or more judges must be assigned to handle CINA and CINS cases. Assignments are made by the circuit administrative judge subject to approval of the Chief Judge of the Court of Appeals. Judges who are assigned to these cases should desire the assignment to the extent feasible, have the requisite temperament, and have special experience or training for the assignment.

Notwithstanding any other law, including any law on privileged communications, health practitioners, police officers, educators, and human service workers, acting in their

professional capacities, who have reason to believe that a child has been subjected to abuse or neglect, must follow specified procedures to report the abuse or neglect.

Within 30 days after completion of an investigation with a finding of either indicated or unsubstantiated child abuse or neglect, the local department is required to notify the person alleged to have caused abuse or neglect of the local department's finding. The procedures to request a hearing in the case of a finding of indicated abuse or neglect are specified. In the case of an unsubstantiated finding, the procedures for the accused person to request a conference, to review the redacted record, and request corrections are specified.

In any custody or visitation proceeding, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to the proceeding, the court must determine whether the abuse or neglect is likely to occur if custody and visitation rights are granted to that party. Unless the court specifically finds that there is no likelihood of further child abuse or neglect by the party, the court must deny custody and visitation rights to the party with the exception of a suitable supervised visitation arrangement.

Background: While State courts have the primary jurisdiction over custody and visitation issues and a responsibility to work on behalf of children to alleviate, to the extent possible, the impact of abuse, neglect, or domestic violence, there have been attempts at the federal level to address this issue. In 1999, Rep. Robert Ney introduced the Child Abuse Reform and Enforcement Act of 1999, also known as the "CARE Act." The purpose of the bill was to help improve information and provide additional protections relating to child sexual abuse. The bill required states to implement legislation to "equalize charging and sentencing of perpetrators of sexual abuse without regard to familial relationship of perpetrator to child victim." States that did not pass conforming legislation would have been penalized up to 25% of federal grant funds provided under the Child Abuse Prevention and Treatment Act of 1974 and the National Child Protection Act of 1993. In 1999, the bill was referred to the House Education and Workforce Subcommittee on Early Childhood, Youth, and Families, where it was not reported out.

In 1997, Rep. Connie Morella introduced H. Con Res. 182, which expressed the sense of the Congress that child abuse and child sexual abuse allegations should be fully and impartially investigated. The concurrent resolution also expressed that states need to greatly improve available protections for victims of domestic and family violence in custody and visitation determinations, and that states should provide training in domestic violence and child abuse, as they impact custody, child support, and visitation determinations. The resolution was referred to the House Judiciary Subcommittee on Crime, where it was not reported out.

State Expenditures: The Administrative Office of the Courts advises that all judges specially appointed to hear juvenile matters would be required to attend a seminar on specific topics related to child abuse and family violence. Assuming the seminar is one day, annual costs for all judges to attend would be in the range of \$2,000 to \$5,000. It is expected that these costs could be absorbed within the existing resources of the Judiciary.

Local Expenditures: The creation of citizen review panels could have a potentially significant impact for local governments. Prince George's County advises that creation of this panel would require about five full-time staff, including an executive director, two investigators, and two clerical positions. Cars would be needed for the investigators. The executive director's salary range would be between \$55,000 and \$75,000. The investigator salaries would be between \$40,000 and \$55,000. Clerical salaries would be between \$25,000 and \$30,000. Expenditures for office equipment, office space, supplies, and two cars would add another \$30,000 to \$50,000 in costs. Accounting for an October 1, 2002 effective date, total fiscal 2003 costs to comply could be about \$300,000.

Montgomery County advises that a citizen review panel already exists. If that panel could be used to comply with the bill, expenditures for a part-time clerical staff person would be about \$20,000 for salary, fringe benefits, and office equipment. If a new additional panel had to be formed, an executive staff person with a salary cost of about \$50,000 and three to five additional social workers at a cost of \$125,000 to \$250,000, would be needed.

Allegany County, on the other hand, has advised that the bill is not expected to have a fiscal impact.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Wicomico County, Allegany County, Montgomery County, Prince George's County, Talbot County, Department of Human Resources, Judiciary (Administrative Office of the Courts), Baltimore City, Department of Legislative Services

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