

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

House Bill 325  
Judiciary

(Delegate Elliott)

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**Child Abuse - Definition - Exemption for Reasonable Punishment by Parent or Stepparent**

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This bill excludes reasonable corporal punishment from the definition of “abuse” contained in criminal and family law child abuse and neglect statutes.

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**Fiscal Summary**

**State Effect:** The bill is not expected to have a significant fiscal or operational impact on the Department of Human Resources (DHR).

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Reasonable corporal punishment is not specifically excluded from statutory definitions of child abuse.

**Background:** DHR advises that reports received by local departments of social services are not accepted for investigation when abuse is alleged solely because corporal punishment has been used as a means of discipline. If a report of suspected abuse is made to a local department, the reporter must give a credible account of an injury to the child. If there is no injury to the child, a local department may not find that abuse has occurred. In December 2003, the Court of Appeals granted *certiorari* in a case to address the issue of reasonable corporal punishment in the context

of child abuse as defined in Maryland law. The Court of Special Appeals, in a two-to-one decision, had reversed a circuit court ruling that held a parent could be responsible for child abuse if the child is injured while resisting what otherwise would be lawful corporal punishment.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced during the 2001 session as HB 499 and during the 1996 session as HB 1097. Both bills received unfavorable reports from the House Judiciary Committee.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 5, 2004  
ncs/jr

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