

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 220 (The President, *et al.*) (By Request – Administration)
Finance and Judicial Proceedings

Department of Human Resources - Disclosure of Information - Hospitals and
Birthing Centers

This Administration bill allows the Department of Human Resources (DHR) to disclose certain child abuse and neglect information to medical or human services personnel of a hospital or birthing center when personnel are making discharge decisions concerning a child and have reasonable, articulable concerns about a child's safety after discharge.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: None. The bill would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Current Law: Any person or persons, except under certain conditions, may not divulge or make known any information concerning any applicant for or recipient of social services, child welfare services, cash assistance, food stamps, or medical assistance directly or indirectly derived from records, papers, files, investigations or communications of the State, county or city, or subdivisions or agencies thereof, or acquired while performing official duties. This information may be divulged in accordance with a court order or to an authorized officer or employee of the State,

another state or local government, or the United States, or a fiduciary institution having a right in an official capacity, and as necessary to discharge responsibilities to administer public assistance, medical assistance, or social services programs.

Generally, all child abuse and neglect records are confidential. An unauthorized disclosure of these reports is a misdemeanor and offenders face a maximum \$500 fine or 90 days in prison, or both. Reports of child abuse and neglect must be disclosed under a court order or under an order of an administrative law judge, if the disclosure request concerns a case pending before the Office of Administrative Hearings and provisions are made to comply with State and federal confidentiality laws and protect the identity of persons endangered by disclosure.

Reports of child abuse and neglect may be disclosed on request under certain circumstances, such as:

- to personnel of local or State departments of social services, law enforcement personnel, and members of multidisciplinary case consultation teams, who are investigating a report of known or suspected child abuse or neglect or who are providing services to a child or family that is the subject of the report;
- to local or State officials responsible for administering child protective services or child care, foster care, and adoption licensing, approval, or regulations as necessary to carry out official functions; and
- to a licensed practitioner who, or an agency, institution, or program which, is providing treatment or care to a child who is the subject of a child abuse or neglect report.

DHR's Social Services Administration (SSA) must adopt regulations regarding child abuse and neglect reports and records that establish: (1) procedures for protecting their confidentiality; (2) conditions under which information may be released; (3) conditions for determining in cases whether abuse, neglect, or sexual abuse is indicated, ruled out, or unsubstantiated; and (4) procedures for appeals.

The local department of social services must expunge a report of suspected abuse or neglect and all assessments and investigative findings: (1) within five years after the date of referral if the investigation of reported or suspected child abuse or neglect concludes that the report is unsubstantiated, and no further reports of abuse or neglect are received during the five years; and (2) within 120 days after the date of referral if the report is ruled out, and no further reports of abuse or neglect are received during the 120 days.

Background: SSA maintains the Client Information System, a computer system that maintains data related to services provided by local departments of social services on child abuse and neglect investigations. Included in this system is the Central Registry for

Indicated/Unsubstantiated Investigations that is accessed either through a court order or with the consent of the person whose name is being searched.

In 2004, newborn twins were discharged to a mother about whom the hospital had concerns. However, the hospital was not aware of the mother's history with the local department of social services, which might have affected the hospital's discharge plan for the newborns. The newborns were murdered after leaving the hospital.

Statute does not speak specifically to a local department of social services releasing information to hospital personnel when the local department is not involved in a current investigation of child abuse or neglect. This bill would allow a local department of social services to share an individual's prior child abuse and neglect history with hospitals and birthing centers when they are making discharge plans for children. For example, if a hospital were aware of a parent's child abuse or neglect history, the hospital might request a community health nurse to visit the family one day after the mother and newborn are discharged, instead of requesting the nurse visit the mother and baby one week after they are discharged, DHR advises. If a hospital wanted to prevent a child from leaving the hospital with the parent, the hospital would still need a court order to do so. While this bill could lead to more child protective services investigations, DHR advises that it cannot determine how many more investigations might happen as a result of the bill.

The Maryland Hospital Association advises that it would be helpful for hospitals to have access to information from child abuse and neglect reports.

Additional Information

Prior Introductions: None.

Cross File: HB 254 (The Speaker, *et al.*) (By Request – Administration) – Judiciary.

Information Source(s): Department of Human Resources, Department of Health and Mental Hygiene, Maryland Hospital Association, Department of Legislative Services

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