

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 106

(Senator Kelley, *et al.*)

Judicial Proceedings

Family Law - Child Abuse or Neglect - Failure to Report - Penalty

This bill makes it a misdemeanor subject to a maximum fine of \$1,000 to knowingly fail to provide a required notice or make a required report regarding child abuse or neglect.

The bill applies to health practitioners, police officers, educators, or human service workers, acting in a professional capacity, who have reason to believe a child may have been subject to abuse or neglect.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's monetary penalty provision. No effect on expenditures.

Local Effect: None.

Small Business Effect: None.

Analysis

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, must notify the local department of social services or the appropriate law enforcement agency. If the individual has reason to believe a child has been subjected to neglect, then that person must notify the local department. If the individual is acting as a staff member of a hospital, public health agency, child care

institution, juvenile detention center, school, or similar institution, then the individual must notify the head of the institution or the designee.

An individual who notifies the appropriate authorities must make an oral report by telephone or direct communication as soon as possible to the local department or the appropriate law enforcement agency if the individual has reason to believe the child has been subjected to abuse. If the individual has reason to believe the child has been subjected to neglect, then the individual must make an oral report to the local department. A written report to the local department is required not later than 48 hours after the contact, examination, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect. A copy of the written report must be provided to the local State's Attorney if the individual has reason to believe the child has been subjected to abuse.

An agency that receives an oral report of suspected abuse must immediately notify the other agency. Local departments and law enforcement agencies are not prohibited from agreeing to cooperative arrangements.

As far as reasonably possible, an individual who makes a report must include the name, age, and home address of the child; the name and home address of the child's parent or other person responsible for the child's care; the whereabouts of the child and the nature and extent of the child abuse or neglect. The report must include any available evidence about previous instances of abuse or neglect, and any information that would help to determine the cause of the suspected abuse or neglect and the identity of any person responsible for the abuse or neglect.

Background: According to the latest information available from the National Clearinghouse on Child Abuse and Neglect, Maryland is one of four states that does not criminalize the failure to report suspected abuse or neglect (the other states are Maine, North Carolina, and Wyoming). In Maryland, the licensing boards for some workers who are mandated to report child abuse and neglect (nurses, doctors, and social workers are examples) are authorized to discipline workers for failing to report.

Of the 46 states and the District of Columbia that do criminalize the failure to report suspected child abuse and neglect, 33 states use a standard of "knowingly," "knows or should have known," or "willfully." Some states require an "intent" standard for the failure to report to rise to criminal activity. Some states criminalize the failure to report without imposing a standard of behavior. The failure to report suspected child abuse and neglect is a misdemeanor in 35 states. In Arizona and Illinois, repeat violations are classified as felonies.

The State Council on Child Abuse and Neglect states that the failure to report is a problem nationwide. The congressionally mandated *Third National Incidence Study*, completed in 1996, found that only 28% of the children recognized by community professionals as having been harmed were reported to, and investigated by, child protective services agencies.

State Revenues: General fund revenues could increase minimally under the bill's monetary penalty provision for those cases heard in the District Court.

Additional Information

Prior Introductions: Similar legislation (SB 98/HB 510) was considered in the 2004 session. SB 98 passed second reading in the Senate, as amended, but was re-referred to the Judicial Proceedings Committee, where it received no further action. HB 510 was heard in the Judiciary Committee, but was then withdrawn. Another similar bill, SB 195 of the 2003 session, passed the Senate as amended, and received an unfavorable report from the Judiciary Committee.

Cross File: HB 845 (Delegate Kelley, *et al.*) – Judiciary.

Information Source(s): Department of Human Resources, National Clearinghouse on Child Abuse and Neglect, U.S. Department of Health and Human Services (Administration for Children and Families), Department of Legislative Services

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mp/jr

Analysis by: Karen D. Morgan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510