

Department of Legislative Services
 Maryland General Assembly
 2006 Session

FISCAL AND POLICY NOTE

Senate Bill 935 (Senator Kelley)
 Judicial Proceedings

Child Welfare - Reports of Children at Risk of Abuse or Neglect

This bill applies reporting and investigating requirements to children who may be at substantial risk of abuse or neglect (in addition to those children suspected of being subjected to abuse or neglect). A person must notify the local department of social services (local department) or the appropriate law enforcement agency if the person has reason to believe that a child is at substantial risk of abuse or neglect because the child is living with, is in the care or custody of, or is regularly in the presence of certain individuals as specified in the bill.

Fiscal Summary

State Effect: General fund revenue expenditures for the Department of Human Resources (DHR) could increase \$4.6 million in FY 2007. Out-years reflect annualization, inflation, and a stable caseload. General fund expenditures in the Judiciary could increase minimally from an increase in the number of Child in Need of Assistance (CINA) petitions that could require additional judicial resources and trial time. Potential minimal increase in general fund expenditures for the Office of Administrative Hearings for additional appeals of administrative findings.

(in dollars)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	4,652,300	5,658,900	5,986,400	6,337,300	6,713,600
Net Effect	(\$4,652,300)	(\$5,658,900)	(\$5,986,400)	(\$6,337,300)	(\$6,713,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in expenditures to conduct additional investigations and provide additional family services as required by the bill. Expenditures for circuit courts could increase minimally to the extent that additional CINA petitions are filed.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that reports or records on child abuse or neglect may be disclosed on request to a licensed practitioner, an agency, institution, or program that provides treatment or care of a child who is the subject of a report of substantial risk of abuse or neglect.

If a person has reason to believe that a child is at substantial risk of abuse or neglect because the child is living with, regularly in the presence of, or in the permanent or temporary care or custody of one of the individuals specified in the bill, then the person must report the substantial risk to the local department or a local law enforcement agency. The substantial risk of abuse or neglect must be reported if the individual is a person who:

- is identified in the Central Registry as an individual responsible for child abuse or neglect;
- is the parent of a child that was found to be a CINA in a proceeding on a petition that the child was abused or neglected;
- has been convicted of the crimes of child abuse, child sexual abuse, or a crime of violence against a child;
- is the mother of a drug-exposed infant; or
- is otherwise known to have abused or neglected a child.

A person is not required to provide notice if: ● it would violate the attorney-client privilege established in State law; ● the notice would disclose confidential information communicated by a client to his/her attorney or other information relating to the client's representation; or ● the disclosure would violate any constitutional right to assistance of counsel.

Each health practitioner, police officer, educator, or human service worker acting in a professional capacity, who makes a report of substantial risk of child abuse or neglect, must immediately notify and make an oral and written report to the head of the institution

or the designee if the worker is a staff member at a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution.

A local department or law enforcement agency may receive a report of substantial risk of abuse or neglect. A law enforcement agency must immediately refer the report to the local department. The Secretary of Human Resources must adopt regulations on eliciting information from individuals that provide a report of substantial risk of abuse or neglect. After confirming that the report's allegations regarding an individual who is the subject of the report are true, the local department must thoroughly investigate the allegations. This may be done jointly with a law enforcement agency. If a subsequent report is received about an individual with a history of child abuse or neglect that alleges substantially the same facts as a report previously investigated by the local department, the local department may decline to investigate.

Within five days after receiving a substantial risk report, the local department or law enforcement agency must see the child, attempt an on-site interview with the caregiver and the individual identified with the history of abuse or neglect, and decide on the child's safety and the safety of other children in the individual's care and custody. An investigation must be completed within 10 days after receipt of the report, if possible. An investigation that is not completed within 30 days must be completed within 60 days after receipt of the report. If the local department determines that the child is not safe, or is at substantial risk of abuse or neglect, the local department may offer services to the family and must immediately decide whether to file a CINA petition. The child's caregiver and the individual identified with the history of abuse or neglect must be notified within 30 days of the local department's determination of the safety and level of risk to the child.

The bill applies the local department's duties relating to expungement to a person who is the subject of a substantial risk report. The bill also applies the immunity from civil liability that applies to other reporters of abuse and neglect to those who make reports of substantial risk of abuse or neglect.

Current Law: Statutory requirements regarding the reporting of child abuse and neglect apply if the reporter suspects that abuse or neglect has occurred. State law does not establish reporting requirements if a reporter believes that a child may be at substantial risk of abuse or neglect.

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 worker has reason to believe a child has been subjected to neglect, then that person must notify the local department. If the worker 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.

In general, a person other than a health care practitioner, police officer, educator, or human service worker who has 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 person has reason to believe a child has been subjected to neglect, then that person must notify the local department. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute.

Within 30 days after completion of an investigation of child abuse and neglect in which there is a finding of either indicated or unsubstantiated abuse or neglect, the local department must notify the individual alleged to have abused or neglected the child of the finding and the opportunity to appeal the finding, as specified in statute. If the finding is for indicated abuse or neglect, the individual must also be notified that he/she is subject to identification in a central registry of individuals responsible for abuse or neglect. If the finding is for unsubstantiated abuse or neglect, an individual may request a conference with a supervisor in the local department by responding to the notice within 60 days. The individual has the right to review a summary of the conference and request a contested case hearing, as provided by statute.

The local department must expunge a report of suspected abuse or neglect, all assessments, and investigative findings if the local department concludes that the report is unsubstantiated and no further reports of abuse or neglect are received during the next five years. The local department must expunge such a report within 120 days if the report is ruled out and no further reports of abuse or neglect are received during the next 120 days. DHR must automatically expunge information on an individual from the registry without a request if no entry has been made for seven years. A person who makes or participates in a report generally has immunity from civil liability, as provided in statute.

Except for identifying information, a central registry of individuals responsible for child abuse or neglect may not include information from the case file until the individual alleged responsible for abuse and neglect has been found guilty of criminal charges arising from the allegation of abuse or neglect, has unsuccessfully appealed the finding, or has failed to exercise appeal rights. The authority of DHR to identify an individual in a central registry as responsible for abuse or neglect applies only to those individuals who have been found guilty of the criminal charge arising from the allegation or if the individual has been found responsible for the abuse or neglect and has unsuccessfully appealed the finding or failed to exercise appeal rights.

State and Local Fiscal Effect:

Judiciary: General fund expenditures could increase minimally in the Judiciary as a result of additional resources needed to address increased CINA petitions. After the local department determines that a child is at substantial risk of abuse or neglect investigation for risk of abuse or neglect, the local department must decide whether to file a petition alleging that the child is a CINA. Since the cases in this bill address children at risk of abuse or neglect, rather than children that are suspected of being abused or neglected, the local department may be more likely to offer services to the family, rather than petition for guardianship of children who may be at risk of abuse or neglect, but have not actually experienced abuse or neglect. The Department of Legislative Services (DLS) advises that the impact of the bill's provisions is expected to be minimal.

Office of Administrative Hearings: Potential minimal increase in general fund expenditures could occur from appeals of cases that indicate substantial risk of abuse or neglect to a child.

Department of Human Resources: In fiscal 2005, Child Protective Services investigated 31,501 reports of child abuse and neglect resulting in 6,175 indicated findings. The largest incidences of investigations with indicated findings occurred in the counties with large populations. For example, Baltimore City had, by far, the largest number of investigations of any local jurisdiction with 6,518 investigations and 1,802 investigations with indicated findings of abuse or neglect. Prince George's County had 3,440 investigations with 542 investigations indicating abuse or neglect. Baltimore County had 3,056 investigations with 659 investigations indicating abuse or neglect. Montgomery County had 2,989 investigations with 429 investigations indicating abuse or neglect, while Anne Arundel County had 2,965 investigations with 504 investigations indicating abuse or neglect.

On the other hand, there are some jurisdictions, where the impact of this bill could be minimal, even negligible. For example, Garrett County conducted 180 investigations for child abuse or neglect in fiscal 2005 and 29 of those investigations had findings that indicated that abuse or neglect occurred. Garrett County indicated in its fiscal response for this bill that there would be no fiscal impact. Even though Price George's County has a relatively large investigation caseload, the county has advised that this bill would not have a fiscal impact. Queen Anne's County had 20 investigations in fiscal 2005 with an indicated finding of abuse or neglect while Talbot and Dorchester counties each completed 46 investigations in fiscal 2005 which had indicated findings of child abuse or neglect.

Based on this information, general fund expenditures could increase by \$4,652,293 million in fiscal 2007, accounting for the bill's October 1, 2006 effective date. This

estimate reflects the cost of 84 additional family service workers and 17 supervisors to conduct investigations of households where children were reported to be at substantial risk of abuse or neglect. The estimate includes salaries, fringe benefits, one-time start-up costs and other ongoing operating expenses. The fiscal 2006 appropriation for salaries and fringe benefits for child protective service workers is \$57.7 million for 752 positions.

DHR, advises that the Child Welfare League of America’s caseload standards indicate that a worker should handle 6 new investigations per month, for a total of 72 investigations per year. This estimate assumes that each of the 84 family services workers would have a caseload of 72 investigations per year. The estimate assumes that DHR could receive 6,050 new reports for substantial risk or abuse or neglect per year. This is comparable to the number of abuse and neglect investigations (6,175) that had indicated findings in fiscal 2005. The number of reports of substantial risk of abuse or neglect could vary significantly from the estimate of 6,050, but is reasonable given the factors that could vary the number of reports that could be received annually.

It is also possible that some of the individuals or families that could be investigated under this bill would already be under investigation due to previous incidences of abuse or neglect. The bill specifically provides that a local department may decline to make an investigation of a report if there was a previous report received regarding an individual with a history of child abuse or neglect that alleges substantially the same facts as were previously investigated. DHR advises that individuals responsible for violent acts towards children could be different from those found to be responsible for child abuse or neglect and added to those subject to reporting under this bill.

Positions	101
Salaries and Fringe Benefits	\$3,964,090
Travel	11,250
Office Space	124,988
Other Operating Expenses	<u>551,965</u>
Total FY 2007 State Expenditures	\$4,652,293

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) a stable caseload.

The Department of Health and Mental Hygiene and the Maryland State Department of Education advise that the requirements of the bill could be met with existing resources. The Department of State Police advises that it acts as the local police department in

Carroll County only, therefore the bill's requirements could be met with existing resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1474 (Delegate Rosenberg) – Judiciary.

Information Source(s): Montgomery County, Prince George's County, Garrett County, Dorchester County, Department of Human Resources, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Maryland State Department of Education, Office of Administrative Hearings, Department of State Police, Baltimore County, Anne Arundel County, Department of Health and Mental Hygiene, Department of Legislative Services

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ncs/ljm

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