

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 965
Judiciary

(Delegate Anderson, *et al.*)

Child Abuse and Neglect - Additional Professions Required to Report

This bill adds coroners, medical examiners, and parole and probation agents to those workers who, when they are acting in a professional capacity, are required to report suspected incidences of child abuse or neglect.

Fiscal Summary

State Effect: The bill's requirements could be enforced with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Penalties for Failure to Report: State law does not criminalize the failure of a worker to report suspected abuse or neglect. The licensing boards for some workers who are mandated to report child abuse and neglect (e.g., nurses, doctors, and social workers) are authorized to discipline workers for failing to report.

Mandatory Reporters: 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. An "educator or human service

worker" includes any teacher, counselor, social worker, caseworker, and probation or parole officer.

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.

A worker 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 worker has reason to believe the child has been subjected to abuse. If the worker 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 worker 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 worker 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, a worker 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.

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.

Background:

Mandatory Reporters: According to the Child Welfare Information Gateway, every state and the District of Columbia have laws that identify those people who are required to

report suspected incidences of child abuse and neglect. As of 2005 (the latest information available), 48 states and the District of Columbia specify professions for which the mandatory reporting requirements apply. Typically, mandated reporters include school personnel, social workers, health care workers, child care providers, medical examiners or coroners, and law enforcement officers. The other two states, New Jersey and Wyoming, do not specify professional workers who are required to report but require all persons to report suspected child abuse or neglect. At least 18 states, including Maryland, require all citizens to report suspected abuse or neglect regardless of profession. In Maryland, however, the reporting requirements for a citizen are less stringent than the reporting requirements for covered professionals.

According to the latest information available, at least 18 states require coroners to report suspected child abuse or neglect. At least 26 states and the District of Columbia require medical examiners to report and at least 14 states require parole and probation officers to report. **Exhibit 1** shows those states that mandate reporting by coroners, medical examiners, and parole and probation officers.

Exhibit 1
Mandatory Reporters/Child Abuse or Neglect

<u>Coroners</u>	<u>Medical Examiners</u>	<u>Parole and Probation Officers</u>
Arkansas	Alabama	Arkansas
California	Arkansas	California
Colorado	California	Connecticut
Hawaii	Colorado	Hawaii
Idaho	Connecticut	Illinois
Illinois	Delaware	Louisiana
Kentucky	District of Columbia	Maryland
Louisiana	Florida	Massachusetts
Missouri	Hawaii	Missouri
Montana	Illinois	Nevada
Nevada	Kentucky	South Dakota
New York	Louisiana	Vermont
North Dakota	Maine	Virginia
Pennsylvania	Massachusetts	Washington
South Carolina	Michigan	
South Dakota	Missouri	
Washington	Montana	
Wisconsin	Nevada	
	New Hampshire	
	New York	
	North Dakota	
	Pennsylvania	
	South Carolina	
	Tennessee	
	Vermont	
	Washington	
	Wisconsin	

Source: Child Welfare Information Gateway, Department of Legislative Services

In addition to the above listed states, Indiana, Minnesota, Rhode Island, Virginia, and West Virginia generally require any licensed medical personnel to report suspected child abuse or neglect. North Carolina requires a professional worker from any institution to report suspected incidences.

Failure to Report Penalties: According to the Child Welfare Information Gateway, as of 2007, 46 states and the District of Columbia impose penalties on mandatory reporters who knowingly or willfully fail to report suspected child abuse or neglect. The states that do not impose a penalty, in addition to Maryland, are Maine, North Carolina, and Wyoming.

Additional Information

Prior Introductions: Legislation that would have made the failure to report a misdemeanor was considered in the 2005, 2004, and 2003 sessions. SB 106/HB 845 of 2005 received unfavorable reports from the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. The penalty provisions in this bill are similar to those contained in SB 98/HB510 of 2004. SB 98 passed the Senate, as amended, on second reading, but was then re-referred to Judicial Proceedings, where it received no further action. HB 510 was heard by the House Judiciary Committee, but was then withdrawn. Another similar bill, SB 195 of 2003, passed the Senate as amended then received an unfavorable report from Judiciary.

Cross File: SB 243 (Senator Kelley, *et al.*) – Judiciary and Judicial Proceedings. Although designated as a cross file, it is not identical.

Information Source(s): Department of Legislative Services

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