

HOUSE BILL 1445

P3

9lr0258

By: **Chair, Judiciary Committee (By Request - Departmental - Human Resources)**

Introduced and read first time: February 26, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Transfer of Sexual Assault Crisis Program Funding**
3 **and the Domestic Violence Program Funding to the Governor's Office of**
4 **Crime Control and Prevention**

5 FOR the purpose of transferring certain responsibilities for certain sexual assault
6 crisis programs and domestic violence programs from the Department of
7 Human Resources to the Governor's Office of Crime Control and Prevention;
8 transferring certain appropriations held by the Department of Human
9 Resources to the Governor's Office of Crime Control and Prevention; providing
10 for the transfer of certain employees; establishing that this Act may not affect
11 certain memberships or terms of office; providing for the validity of certain
12 transactions; authorizing the publishers of the Annotated Code to take certain
13 actions; providing for the continued effectiveness of certain directives, duties,
14 and responsibilities relating to the functions of a sexual assault crisis program
15 and domestic violence program; transferring all functions, powers, duties,
16 equipment, assets, and liabilities of certain sexual assault crisis programs and
17 domestic violence programs from the Department of Human Resources to the
18 Governor's Office of Crime Control and Prevention; defining a certain term; and
19 generally relating to domestic violence programs and sexual assault crisis
20 programs.

21 BY repealing and reenacting, with amendments,
22 Article - Criminal Procedure
23 Section 11-923
24 Annotated Code of Maryland
25 (2008 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article - Family Law
28 Section 4-501, 4-503, 4-515, and 4-516

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2006 Replacement Volume and 2008 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That the Laws of Maryland read as follows:

5 **Article – Criminal Procedure**

6 11–923.

7 (a) The General Assembly finds that an increasing number of sexual assault
8 offense victims in the State:

9 (1) lack necessary counseling and follow–up services; and

10 (2) in some parts of the State, have only the help of extremely limited
11 support services.

12 (b) The purpose of this section is to provide for sexual assault crisis programs
13 that address the special needs of sexual assault victims.

14 (c) (1) The [Department of Human Resources] **GOVERNOR’S OFFICE OF**
15 **CRIME CONTROL AND PREVENTION** shall help establish sexual assault crisis
16 programs in the State.

17 (2) The programs shall be developed and located to facilitate their use
18 by alleged victims residing in surrounding areas.

19 (3) The programs shall:

20 (i) provide specialized support services to adult and minor
21 alleged victims of sexual assault crimes; and

22 (ii) include a hotline and counseling service.

23 (d) The [Department of Human Resources] **GOVERNOR’S OFFICE OF**
24 **CRIME CONTROL AND PREVENTION** may [contract with] **AWARD GRANTS TO**
25 public or private nonprofit organizations to operate the sexual assault crisis programs.

26 (e) Money for the sexual assault crisis programs shall be as provided in the
27 annual State budget and shall be used to supplement, but not supplant, money that
28 the programs receive from other sources.

29 (f) The [Secretary of Human Resources] **EXECUTIVE DIRECTOR OF THE**
30 **GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION** shall include a
31 report on the sexual assault crisis programs in the [Department of Human Resources]

1 **GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION** annual report to
2 the General Assembly.

3 **Article – Family Law**

4 4–501.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) (1) “Abuse” means any of the following acts:

7 (i) an act that causes serious bodily harm;

8 (ii) an act that places a person eligible for relief in fear of
9 imminent serious bodily harm;

10 (iii) assault in any degree;

11 (iv) rape or sexual offense under §§ 3–303 through 3–308 of the
12 Criminal Law Article or attempted rape or sexual offense in any degree;

13 (v) false imprisonment; or

14 (vi) stalking under § 3–802 of the Criminal Law Article.

15 (2) If the person for whom relief is sought is a child, “abuse” may also
16 include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this
17 subtitle shall be construed to prohibit reasonable punishment, including reasonable
18 corporal punishment, in light of the age and condition of the child, from being
19 performed by a parent or stepparent of the child.

20 (3) If the person for whom relief is sought is a vulnerable adult,
21 “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1
22 of this article.

23 (c) “Child care provider” means a person that provides supervision and care
24 for a minor child.

25 (d) “Cohabitant” means a person who has had a sexual relationship with the
26 respondent and resided with the respondent in the home for a period of at least 90
27 days within 1 year before the filing of the petition.

28 (e) “Commissioner” means a District Court Commissioner appointed in
29 accordance with Article IV, § 41G of the Maryland Constitution.

30 (f) “Court” means the District Court or a circuit court in this State.

1 (g) “Emergency family maintenance” means a monetary award given to or for
2 a person eligible for relief to whom the respondent has a duty of support under this
3 article based on:

4 (1) the financial needs of the person eligible for relief; and

5 (2) the resources available to the person eligible for relief and the
6 respondent.

7 **(H) “EXECUTIVE DIRECTOR” MEANS THE EXECUTIVE DIRECTOR OF**
8 **THE GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.**

9 [(h)] **(I)** “Final protective order” means a protective order issued under §
10 4–506 of this subtitle.

11 [(i)] **(J)** “Home” means the property in this State that:

12 (1) is the principal residence of a person eligible for relief; and

13 (2) is owned, rented, or leased by the person eligible for relief or
14 respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an
15 adult living in the home at the time of a proceeding under this subtitle.

16 [(j)] **(K)** “Interim protective order” means an order that a Commissioner
17 issues under this subtitle pending a hearing by a judge on a petition.

18 [(k)] **(L)** “Local department” means the local department that has
19 jurisdiction in the county:

20 (1) where the home is located; or

21 (2) if different, where the abuse is alleged to have taken place.

22 [(l)] **(M)** “Person eligible for relief” includes:

23 (1) the current or former spouse of the respondent;

24 (2) a cohabitant of the respondent;

25 (3) a person related to the respondent by blood, marriage, or adoption;

26 (4) a parent, stepparent, child, or stepchild of the respondent or the
27 person eligible for relief who resides or resided with the respondent or person eligible
28 for relief for at least 90 days within 1 year before the filing of the petition;

29 (5) a vulnerable adult; or

1 (6) an individual who has a child in common with the respondent.

2 [(m)] (N) (1) “Petitioner” means an individual who files a petition.

3 (2) “Petitioner” includes:

4 (i) a person eligible for relief; or

5 (ii) the following persons who may seek relief from abuse on
6 behalf of a minor or vulnerable adult:

7 1. the State’s Attorney for the county where the child or
8 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

9 2. the department of social services that has jurisdiction
10 in the county where the child or vulnerable adult lives, or, if different, where the abuse
11 is alleged to have taken place;

12 3. a person related to the child or vulnerable adult by
13 blood, marriage, or adoption; or

14 4. an adult who resides in the home.

15 [(n)] (O) “Residence” includes the yard, grounds, outbuildings, and common
16 areas surrounding the residence.

17 [(o)] (P) “Respondent” means the person alleged in the petition to have
18 committed the abuse.

19 [(p)] (Q) “Temporary protective order” means a protective order issued
20 under § 4–505 of this subtitle.

21 [(q)] (R) “Victim” includes a person eligible for relief.

22 [(r)] (S) “Vulnerable adult” has the meaning provided in § 14–101(q) of this
23 article.

24 4–503.

25 (a) A law enforcement officer who responds to a request for help under §
26 4–502 of this Part I of this subtitle shall give the victim a written notice that:

27 (1) includes the telephone number of a local domestic violence
28 program that receives funding from the [Department of Human Resources]
29 GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION; and

30 (2) states that:

1 (i) the victim may request that a District Court commissioner
2 file a criminal charging document against the alleged abuser;

3 (ii) if the commissioner declines to charge the alleged abuser,
4 the victim may request that the State's Attorney file a criminal charging document
5 against the alleged abuser;

6 (iii) the victim may file in the District Court or a circuit court or,
7 when neither the office of the clerk of the circuit court nor the Office of the District
8 Court Clerk is open, with a commissioner, a petition under this subtitle; and

9 (iv) the victim may obtain a copy of the incident report, as
10 provided under § 4-503.1 of this Part I of this subtitle.

11 (b) A law enforcement officer may not be held liable in a civil action that
12 arises from the officer's failure to provide the notice required under subsection (a) of
13 this section.

14 4-515.

15 (a) (1) [The Secretary] **THE EXECUTIVE DIRECTOR** shall establish a
16 program in the [Department of Human Resources] **GOVERNOR'S OFFICE OF CRIME**
17 **CONTROL AND PREVENTION** to help victims of domestic violence and their children.

18 (2) The purpose of the program is to provide for victims of domestic
19 violence and their children, in each region of this State:

20 (i) temporary shelter or help in obtaining shelter;

21 (ii) counseling;

22 (iii) information;

23 (iv) referral; and

24 (v) rehabilitation.

25 (b) As a part of the domestic violence program, there shall be, in a major
26 population center of this State, at least 1 program serving the area.

27 (c) Any program established under this section shall be subject to the
28 following conditions:

29 (1) the program shall provide victims of domestic violence and their
30 children with a temporary home and necessary counseling;

1 (2) the [Department of Human Resources] **GOVERNOR'S OFFICE OF**
2 **CRIME CONTROL AND PREVENTION** shall:

3 (i) supervise the program;

4 (ii) set standards of care and admission policies;

5 (iii) monitor the operation of the program and annually evaluate
6 the effectiveness of the program; and

7 (iv) adopt rules and regulations that set fees for services at and
8 govern the operation of each program;

9 (3) the program shall accept from the police or any other referral
10 source in the community any victim of domestic violence and the child of any victim of
11 domestic violence; and

12 (4) housing may not be provided under this subtitle to an applicant for
13 housing who is not a resident of this State at the time the application for housing is
14 made.

15 (d) (1) As funds become available, the [Secretary] **EXECUTIVE**
16 **DIRECTOR** may extend the domestic violence program to other areas in this State.

17 (2) Expansion of the domestic violence program may include:

18 (i) establishing additional shelters; or

19 (ii) providing funds and technical assistance to a local
20 organization or agency that shows that it is able and willing to run a domestic violence
21 program.

22 4-516.

23 (a) Subject to § 2-1246 of the State Government Article, the [Secretary]
24 **EXECUTIVE DIRECTOR** shall submit to the General Assembly a report on the
25 domestic violence program annually.

26 (b) In addition to receiving funds from the annual budget, the [Secretary]
27 **EXECUTIVE DIRECTOR** shall attempt to secure funding, including in-kind
28 contributions, for the establishment and operation of the domestic violence program
29 from:

30 (1) the federal government;

31 (2) local governments; and

1 (3) private sources.

2 SECTION 2. AND BE IT FURTHER ENACTED, That certain appropriations,
3 held by the Department of Human Resources to carry out the functions and programs
4 transferred under this Act shall be transferred to the Governor's Office of Crime
5 Control and Prevention on the effective date of this Act.

6 SECTION 3. AND BE IT FURTHER ENACTED, That an employee transferred
7 under this Act shall be appointed without further examination or qualification. The
8 employee shall be placed in a classification that is comparable in duties and
9 responsibilities to the employee's former position. The employee may not suffer a
10 diminution of salary or wages, accrued leave, whether earned or granted, or seniority
11 rights.

12 SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act
13 affects the terms of office of an appointed or elected member of any division, board,
14 commission, authority, council, committee, office, or unit. An individual who is a
15 member of a division, board, commission, authority, council, committee, office, or unit
16 on the effective date of this Act shall remain a member for the balance of the term to
17 which the member is appointed or elected, unless the member sooner dies, resigns, or
18 is removed under provisions of law.

19 SECTION 5. AND BE IT FURTHER ENACTED, That, except as expressly
20 provided to the contrary in this Act, any transaction affected by or flowing from any
21 statute here amended, repealed, or transferred, and validly entered into before the
22 effective date of this Act, and every right, duty, or interest following from the
23 transaction, remains valid after the effective date of this Act and may be terminated,
24 completed, consummated, or enforced pursuant to law.

25 SECTION 6. AND BE IT FURTHER ENACTED, That the publisher of the
26 Annotated Code of Maryland, in consultation with and subject to the approval of the
27 Department of Legislative Services, shall correct, with no further action required by
28 the General Assembly, cross-references and terminology rendered incorrect by this
29 Act or by any other Act of the General Assembly of 2009 that affects provisions
30 enacted by this Act. The publishers shall adequately describe any such correction in
31 an editor's note following the section affected.

32 SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise
33 provided by law, all existing laws, rules and regulations, proposed rules and
34 regulations, standards and guidelines, policies, orders and other directives, forms,
35 plans, memberships, contracts, property, investigations, administrative and judicial
36 responsibilities, rights to sue and be sued, and all other duties and responsibilities
37 associated with the functions of the sexual assault crisis programs and domestic
38 violence programs located within the Department of Human Resources, prior to the
39 effective date of this Act shall continue in effect under the Department of Human
40 Resources until completed, withdrawn, canceled, modified, or otherwise changed
41 pursuant to law.

1 SECTION 8. AND BE IT FURTHER ENACTED, That on July 1, 2009, all the
2 functions, powers, duties, equipment, assets, and liabilities of the sexual assault crisis
3 programs and domestic violence programs within the Department of Human
4 Resources shall be transferred to the Governor's Office of Crime Control and
5 Prevention.

6 SECTION 9. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2009.