

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 534

(Senator Shank)

Judicial Proceedings

Judiciary

Family Law - Preventing or Interfering with Report of Suspected Child Abuse or Neglect

This bill prohibits an individual from intentionally preventing or interfering with the making of a mandatory report of suspected child abuse or neglect by specified workers. An individual is also prohibited from intentionally preventing or interfering with the making of a mandatory report of suspected abuse or neglect of a child who lives outside of this State that is alleged to have occurred outside the State. A person who violates these provisions is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or a \$10,000 fine.

Fiscal Summary

State Effect: The bill's penalty provisions are not expected to materially impact State finances.

Local Effect: The bill's penalty provisions are not expected to materially impact local finances.

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 or neglect, 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 parole or probation officer. 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 also notify the head of the institution or the designee of the head.

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 or neglect. 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. An agency that receives an oral report of suspected abuse or neglect must immediately notify the other agency.

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 or neglect must notify the local department of social services or the appropriate law enforcement agency. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute. Individuals (other than those who are required to report because of their professional capacity) who in good faith make or participate in making a report of abuse or neglect or participate in an investigation or resulting judicial proceeding are immune from civil liability or criminal penalties.

If suspected child abuse or neglect is alleged to have occurred outside the State and the victim is currently a child who lives outside of this State, a person who would be required to report suspected abuse or neglect as indicated above must report the suspected abuse or neglect to any local department of social services. Individuals who are required to report in their professional capacity are specifically required to follow the procedures set forth above regarding making an oral report and a written report within the specified timeframes.

State law does not criminalize the failure to report suspected abuse or neglect. 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 impose sanctions on licensees for failing to report.

Additional Information

Prior Introductions: None.

Cross File: HB 631 (Delegate Hough, *et al.*) - Judiciary.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Maryland State Department of Education, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2013
ncs/kdm

Analysis by: Jennifer K. Botts

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