

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1326

(Delegate Valentino-Smith)

Judiciary

Child Protection - Reporting - Threat of Harm

This bill authorizes an individual to notify a local department of social services or the appropriate law enforcement agency if the individual has reason to believe that (1) a verbal threat of imminent severe bodily harm or death to a child has been made by a child's parent or other person who has permanent or temporary care, custody, or responsibility for supervision of the child or by any household or family member and (2) the child is at substantial risk of abuse. The bill generally extends procedures relating to the reporting and investigation of a substantial risk of sexual abuse to reports concerning a substantial risk of abuse.

Fiscal Summary

State Effect: Any additional investigations for threats of harm can be handled with existing budgeted resources. Potential minimal increase in insurance costs, as explained below.

Local Effect: Any additional investigation for threats of harm can be handled with existing budgeted resources. Potential minimal increase in insurance costs, as explained below.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, an individual may notify the local department of social services or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a child allows the child to reside with or be in the presence of an individual, other than the child's parent or guardian, who (1) is registered on the sexual offender registry based on the commission of an offense

against a child and (2) poses a substantial risk of sexual abuse to the child, based on additional information. An individual may make an oral or written report.

To the extent reasonably possible, an individual who makes a report regarding a substantial risk of sexual abuse must include information about the child, the child's parents or caregivers, the child's whereabouts, the nature and extent of the substantial risk, including any evidence or information available concerning possible previous instances of sexual abuse, and any other information that would help to determine the cause of the substantial risk of sexual abuse and the individual responsible. If the person making the report is acting as a staff member at a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, the individual must immediately notify and give all required information to the head of the institution or to that individual's designee. The bill generally extends these provisions to reports of a substantial risk of abuse but specifies that, for reports of a substantial risk of abuse, the report should include, to the extent possible, any evidence or information available to the reporter concerning possible previous instances of abuse.

Under current law, a local department or law enforcement agency may receive a report of substantial risk of sexual abuse. The bill authorizes a local department or a law enforcement agency to also receive a report regarding a substantial risk of abuse. If a law enforcement agency receives a report, the agency must immediately refer the report to the local department. Within five days after receiving a substantial risk of sexual abuse report, the local department and law enforcement agency must see the child and attempt an on-site interview with the caregiver and the registered individual. The bill establishes that, for substantial risk of abuse reports, the local department and law enforcement must see the child and attempt to have an on-site interview with the individual alleged to have made the threat of harm. The bill also extends the requirement for a local department and law enforcement to decide on the safety and the level of risk to the child and other children in the care or custody of the individual to those reports regarding a substantial risk of abuse.

Under current law, a local department that receives a report regarding a substantial risk of sexual abuse must conduct a thorough investigation after confirming that the allegations in the report regarding the individual's history of sexual abuse are accurate, and that there is specific information that the child is at substantial risk of sexual abuse. The bill expands these provisions to include substantial risk of abuse. The investigation must be conducted in conjunction with an appropriate law enforcement agency. As part of the investigation, the local department must (1) determine whether the child is safe; (2) determine whether sexual abuse of the child has occurred; (3) offer appropriate services to the family; and (4) immediately decide whether to file a Child in Need of Assistance petition. The bill establishes that, as part of the investigation, the local department must also determine whether abuse of the child has occurred. To the extent possible, an investigation must be completed as soon as practicable but no later than 30 days after receipt of a report.

The bill also requires the Secretary of Human Resources to adopt regulations governing the definition of “substantial risk of abuse,” and how staff in a local department should elicit information when receiving such a report.

Child Abuse and Neglect – Reporting Requirements

Pursuant to 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.

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 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.

Statutory provisions specify a process for the investigation of child abuse and neglect reports.

State/Local Fiscal Effect: The bill appears to authorize a new reporting category; for purposes of this analysis, however, it is assumed that many individuals who are likely to elect to report a threat of imminent harm and/or a substantial risk of abuse under this bill may already be likely to report such incidents under current law, thus negating the need for additional resources.

Although one of the purposes of the Child Abuse and Neglect Subtitle of the Family Law Article is to grant immunity to *any* good faith reporter of child abuse or neglect, because the bill does not make a corresponding change to the statute that specifically grants immunity from civil liability, individuals who make a report under the bill’s provisions may not be immune. Accordingly, insurance costs for the State and local governments may increase for additional liability coverage.

Additional Information

Prior Introductions: HB 825 of 2016, a substantially similar bill, received an unfavorable report from the House Judiciary Committee. Its cross file, SB 577, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Baltimore, Charles, and Montgomery counties; cities of Frederick and Havre de Grace; Maryland State Department of Education; Department of Health and Mental Hygiene; Department of Human Resources; Department of State Police; Department of Legislative Services

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