

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 797

(Senator Ready, *et al.*)

Judicial Proceedings

Child Abuse and Neglect - Reporting - Definitions

This bill expands provisions specifying the workers in a professional capacity who are required to provide notice of and report suspected child abuse or neglect to include additional workers. It also establishes a definition for a “mandated reporter.”

Fiscal Summary

State Effect: The bill’s requirements, including any potential training for additional mandatory reporters, can be handled with existing resources. To the extent that the bill results in additional reports of child abuse or neglect, the Department of Human Resources can handle those with existing budgeted resources.

Local Effect: The bill’s requirements, including any potential training for additional mandatory reporters, can be handled with existing budgeted resources. To the extent that the bill results in additional reports of child abuse or neglect, local law enforcement and State’s attorneys’ offices can handle those with existing budgeted resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill specifies that an “educator or human service worker” includes a teacher’s aide or assistant, a school counselor or guidance counselor, and a school official or administrator. It also specifies that the term includes counselors who are licensed or unlicensed marriage, family, or individual counselors. In addition, the bill repeals a provision excluding an emergency medical dispatcher from the definition of a “health practitioner.”

A “mandated reporter” is any of the following individuals, acting in a professional capacity, who are required to report suspected abuse or neglect: (1) a health practitioner; (2) a law enforcement officer; (3) an educator or a human service worker; (4) a child care worker or an administrator; (5) a foster parent; or (6) an individual employed by a youth-serving organization. A “youth-serving organization” is an organization whose goal is to educate, serve, or assist in the development of children at any age.

Current Law:

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 or neglect, must notify the local department of social services or the appropriate law enforcement agency. An “educator or human service worker” means any professional employee of any correctional, public, parochial, or private educational, health, juvenile service, social or social service agency, institution, or licensed facility. Such workers include 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 notify the head of the institution or the designee. A “health practitioner” does not include an emergency medical dispatcher.

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, 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. Such notification may be oral or in writing and must, to the extent possible, include

the same information as specified above. 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.

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 (nurses, doctors, and social workers are examples) are authorized to discipline workers for failing to report. Pursuant to Chapters 374 and 375 of 2016, if an agency is participating in a child abuse or neglect investigation and has substantial grounds to believe that a worker has knowingly failed to make a required report of suspected abuse or neglect, it must file a complaint with the worker's licensing board, law enforcement agency, county board of education, or other agency, institution, or licensed facility, as appropriate, at which the worker is employed.

Child Abuse and Neglect Investigations

After receiving a report of suspected abuse or neglect of a child who lives in Maryland that is alleged to have occurred in the State, the local department of social services and/or the appropriate law enforcement agency must promptly investigate the report to protect the health, safety, and welfare of the child or children. Within 24 hours after receiving a report of suspected physical or sexual child abuse, and within five days after receiving a report of suspected child neglect or mental injury, the local department or law enforcement agency must (1) see the child; (2) attempt to have an on-site interview with the child's caretaker; (3) decide on the safety of the child and of other children in the household; and (4) decide on the safety of the other children in the care or custody of the alleged abuser. The determinations and assessments that are required during an abuse or neglect investigation are specified in statute.

The local State's Attorney must assist in a child abuse or neglect investigation if requested to do so by a local department of social services. The local departments, appropriate law enforcement agencies, the State's Attorneys in the counties and Baltimore City, and the local health officers must enter into a written agreement pertaining to standard operating procedures for investigations of suspected abuse or neglect. A joint investigation procedure must be implemented for conducting investigations of sexual abuse, which must include techniques for expediting validation of sexual abuse complaints and other techniques to decrease trauma to the child.

To the extent possible, a child abuse or neglect investigation must be completed within 10 days after receiving the notice of the suspected abuse or neglect. Within 10 days after

receiving the first notice of suspected abuse or neglect of a child, the local department of social services or law enforcement agency must report the preliminary investigation findings to the local State's Attorney. Within 5 business days after the investigation is completed, the local department and the law enforcement agency, if the law enforcement agency participated in the investigation, must make a complete written report of findings to the local State's Attorney.

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 August 2015 (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.

Additional Information

Prior Introductions: None.

Cross File: HB 1197 (Delegate McComas, *et al.*) - Judiciary.

Information Source(s): Dorchester, Garrett, and Montgomery counties; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Juvenile Services; Department of State Police; Department of Human Resources; Child Welfare Information Gateway; Department of Legislative Services

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