

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1507  
Judiciary

(Delegate Angel)

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Compulsory School Attendance - Truancy Violations - Reporting of Neglect

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This bill alters the definition of “neglect” in provisions of law governing the reporting and investigation of suspected child abuse and neglect to include the failure of any person who has legal custody or care and control of a child who is older than age 5 and younger than age 18 to see that the child attends school or receives educational instruction. A school employee must report such persons to the local department of social services for neglect. The bill repeals existing criminal penalties related to the failure of a person to see that a child attends school or receives educational instruction. **The bill takes effect July 1, 2018.**

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Fiscal Summary

**State Effect:** *Potential* significant increase in State expenditures (assumed to be general funds) to the extent additional reports of neglect are received. Revenues are not materially affected.

**Local Effect:** The bill is not anticipated to materially affect local finances.

**Small Business Effect:** Minimal.

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Analysis

**Current Law/Background:**

*Child Abuse and Neglect*

As discussed below, statutory provisions set forth a process by which individuals are required to report suspected child abuse and neglect; local departments of social services

must take specified action upon receiving such reports. “Neglect” means the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate that the child’s health or welfare is harmed or placed at substantial risk or harm or mental injury to the child or a substantial risk of mental injury.

### *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” 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 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 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 specified information, including 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. 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.

### *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 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. Statutory provisions specify timeframes by which investigations and reports must be completed.

### *Truancy Violations*

Any person with legal custody or care and control of a child who is older than age 5 and younger than 18 who fails to see that the child attends school or receives educational instruction is guilty of a misdemeanor and subject to maximum penalties of a \$50 fine per day of unlawful absence or 10 days imprisonment for a first offense. A second or subsequent conviction is subject to maximum penalties of a \$100 fine per day of unlawful absence or 30 days imprisonment.

In counties in which the circuit administrative judge has established a Truancy Reduction Pilot Program, it is an affirmative defense if a person with legal custody or care and control of a child at the time of an alleged violation made reasonable and substantial efforts to see that the child attended school as required by law but was unable to cause the child to attend school. On a finding that the affirmative defense is valid, the court must dismiss the charge. Similar to drug courts, truancy courts are problem-solving courts in which cases are heard on a special docket by the same judge each month. The courts hold regular hearings in each case to review a child's progress toward full attendance and to address the causes of the child's truancy. A social worker, counselor, or case manager works with the families to determine the reasons for poor attendance and makes referrals for appropriate community-based services. According to the Judiciary's *Problem-Solving Courts Annual Report* for fiscal 2017, truancy reduction pilot programs were active in Dorchester,

Harford, Kent, Prince George's, Somerset, Talbot, Wicomico, and Worcester counties and served 273 individuals.

**State/Local Fiscal Effect:** The Department of Human Services did not respond to a request for an estimate of the impact of the bill. While the bill requires school employees to report incidents of truancy under the bill's expanded definition of "neglect," the Maryland State Department of Education advises that some public schools may already be notifying local departments of social services of such incidents. However, because the bill will likely result in additional reports of neglect, it is assumed that additional resources *may* be needed to handle additional reports. *For illustrative purposes only*, for every new caseworker required, State expenditures (assumed to be general funds) increase by approximately \$64,000 annually beginning in fiscal 2019.

The bill is not anticipated to materially impact the workload of the Judiciary or law enforcement agencies. The repeal of existing penalty provisions is also not anticipated to materially impact State or local finances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2018  
nb/rhh

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