

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 296

(Senator Hough, *et al.*)

Judicial Proceedings

Judiciary

**Family Law – Preventing or Interfering With Report of Suspected Sexual Abuse
of a Child – Statute of Limitations**

This bill establishes that an individual who intentionally prevents or interferes with the making of a report of suspected sexual abuse of a child by a mandatory reporter may be prosecuted at any time for the violation.

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State operations or finances.

Local Effect: The bill is not anticipated to materially impact local government operations or finances.

Small Business Effect: None.

Analysis

Current Law/Background:

Reporting Suspected Child Abuse and Neglect

In General: Statutory provisions set forth requirements regarding the reporting of suspected child abuse and neglect. Pursuant to the applicable definition, abuse includes the sexual abuse of a child, whether physical injuries are sustained or not.

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 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.

If suspected child abuse or neglect is alleged to have occurred outside of the State and the victim is currently a child residing outside of the State, a mandatory reporter must report the suspected abuse or neglect to any local department, as specified.

An individual may not intentionally prevent or interfere with the making of a report of suspected abuse or neglect in the circumstances specified above. A violator is guilty of a misdemeanor and subject to a maximum penalty of five years imprisonment and/or a \$10,000 fine. The Judiciary advises that, in fiscal 2019, there were four violations of this offense filed in the trial courts and no convictions.

Reporting by Other Individuals: Although the term “mandatory reporters” refers only to individuals who must report suspected child abuse or neglect because of their professional capacity, State law generally requires all individuals to report suspected child abuse and neglect. For example, pursuant to § 5-705 of the Family Law Article, 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. Other individuals must also report suspected abuse or neglect that is alleged to have occurred outside of this

State, as specified. However, attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute. Unlike mandatory reporters, other individuals are not subject to criminal penalties for the failure to report suspected child abuse and neglect. The prohibition against preventing or interfering with the making of a report of suspected abuse or neglect is only applicable to those reports made by a mandatory reporter.

Statute of Limitations for Misdemeanors

In general, a prosecution for a misdemeanor must be instituted within one year after the offense was committed. However, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary, or that a person is subject to § 5-106(b) of the Courts and Judicial Proceedings Article, the State may institute a prosecution for the misdemeanor at any time.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore City; Caroline, Howard, Montgomery, and Prince George's counties; City of Bowie; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland State Department of Education; Maryland Department of Health; Department of Human Services; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2020
mm/lgc
Third Reader - March 10, 2020
Revised - Amendment(s) - March 10, 2020
Revised - Clarification - March 10, 2020

Analysis by: Jennifer K. Botts

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