

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 267

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Human Services)

Judicial Proceedings

Judiciary

**Family Law – Investigation of Suspected Child Abuse and Neglect – Preliminary
Report to State’s Attorney**

This departmental bill repeals the requirement for a local department of social services or a law enforcement agency to report, within 10 days after receiving the first notice of suspected child abuse that is alleged to have occurred in this State, the preliminary findings of the investigation to the local State’s Attorney.

Fiscal Summary

State Effect: State finances are not materially affected, but the bill results in operational efficiencies for the Department of Human Services (DHS).

Local Effect: The bill does not materially affect the finances or operations of State’s Attorneys’ offices or local law enforcement agencies.

Small Business Effect: DHS has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Current Law: 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 onsite 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. 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 of a child who lives in this State that is alleged to have occurred in this State, 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.

Reports of child abuse and neglect may also be referred for an "alternative response" in specified circumstances. An alternative response means a component of the child protective services program that provides for a comprehensive assessment of (1) risk of harm to the child; (2) risk of subsequent child abuse or neglect; (3) family strengths and needs; and (4) the provision of or referral for necessary services. An alternative response does not include an investigation or a formal determination as to whether child abuse or neglect has occurred. Only a low-risk report of abuse or neglect may be considered for an alternative response. Statutory provisions set forth procedures for an alternative response.

Background: According to DHS, the statutory requirement of providing a preliminary report to the State's Attorney is not supported by modern practice models. The preliminary report requirement was created when the presumed response to an allegation of child abuse was punitive in nature and always involved a law enforcement response. However, the alternative response intervention strategy instead recognizes that variations in families' circumstances require different approaches, such as greater participation by community agencies in supporting families who are considered low risk so that children may be safe while remaining in their homes. DHS further advises that the required preliminary reports place additional burdens on local departments and are unnecessary since they are not comprehensive and do not represent complete investigations. DHS further notes that

information regarding substantiated cases of abuse will still be provided to the appropriate entity following the completion of the investigation.

Additional Information

Prior Introductions: HB 670 of 2020 passed the House with amendments but remained in the Senate Rules Committee with no further action.

Designated Cross File: None.

Information Source(s): Montgomery, Talbot, and Wicomico counties; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - January 11, 2021
rh/lgc Third Reader - February 2, 2021

Analysis by: Jennifer K. Botts

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Family Law – Investigation of Suspected Child Abuse and Neglect – Preliminary Report to State’s Attorney

BILL NUMBER: SB 267

PREPARED BY: Department of Human Services
(Dept./Agency)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS