

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 589
Judiciary

(Delegate W. Fisher, *et al.*)

Rules

Adult Protective Services - Workgroup to Study Best Practices for a Vulnerable
Adult Registry in Maryland

This bill establishes the Workgroup to Study Best Practices for a Vulnerable Adult Registry in Maryland, staffed by the Department of Human Services (DHS). The workgroup must (1) study best practices for implementation of a statewide vulnerable adult registry, including technological, legal, financial, and practical considerations; (2) identify the appropriate State agency to operate a registry; (3) study and identify, to the extent possible, how specified grant funds were allocated and used, if ever awarded; and (4) study and make recommendations regarding any changes or improvements to State law. By June 1, 2023, the workgroup must report its findings and recommendations to the Governor and the General Assembly. Workgroup members may not receive compensation but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget. **The bill takes effect July 1, 2022, and terminates June 30, 2023.**

Fiscal Summary

State Effect: Any expense reimbursements for workgroup members and staffing costs for DHS are assumed to be minimal and absorbable within existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Reporting and Investigating Abuse or Neglect of a Vulnerable Adult – Family Law Article

A vulnerable adult is an adult who lacks the physical or mental capacity to provide for the adult's daily needs. "Abuse" means the sustaining of any physical injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act by any person. "Neglect" is the willful deprivation of a vulnerable adult of adequate food, clothing, essential medical treatment or habilitative therapy, shelter, or supervision. "Neglect" does not include the providing of nonmedical remedial care and treatment for the healing of injury or disease, with the consent of the vulnerable adult, recognized by State law instead of medical treatment.

Statutory provisions specify procedures for the reporting and investigation of reports of the abuse or neglect of a vulnerable adult, the specifics of which depend on the adult who is alleged to have been abused or neglected. For example, a person who believes that an individual with a developmental disability has been abused must report the alleged abuse to the executive officer or administrative head of the licensee; the report may be oral or written. The executive officer or administrative head must report the alleged abuse to an appropriate law enforcement agency, which must investigate, as specified.

If a report does not involve the abuse of a patient in a mental health facility, a facility for individuals with an intellectual disability, a nursing home, or a hospital, investigation procedures are governed by the Family Law Article. Pursuant to the Family Law Article, any health care practitioner, police officer, or human service worker who contacts, examines, attends, or treats an alleged vulnerable adult, and who has reason to believe that the alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation, must notify the local department of social services. If the health care practitioner, police officer, or human service worker is a staff member of a hospital or public health agency, he or she must immediately notify and give all the information required by law to the head of the institution or its designee. The report must be made by telephone, in writing, or by direct communication as soon as possible. Individuals other than those required to report due to their professional responsibilities may also file a report with a local department. The local department must begin a thorough investigation, as specified, and may request assistance from other entities, including the State's Attorney or law enforcement.

Crime of Abuse or Neglect of a Vulnerable Adult

Sections 3-604 and 3-605 of the Criminal Law Article prohibit the abuse or neglect of a vulnerable adult. “Abuse” means the sustaining of physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult’s health or welfare is harmed or threatened. “Abuse” includes the sexual abuse of a vulnerable adult. “Abuse” does not include an accepted medical or behavioral procedure ordered by a health care provider authorized to practice under the Health Occupations Article or emergency medical personnel acting within the scope of the health care provider’s practice.

A caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult that results in death, causes serious physical injury, or involves sexual abuse. The same prohibition applies to a household member or family member.

A violator is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and subject to maximum penalties of 10 years imprisonment and/or a fine of \$10,000. A sentence imposed under this provision must be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

Under the second-degree prohibition, a caregiver, a parent, or other person who has permanent or temporary care or responsibility for the supervision of a vulnerable adult may not cause abuse or neglect of the vulnerable adult. A household member or family member may not cause abuse or neglect of a vulnerable adult. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a \$5,000 fine. A sentence imposed under this provision must be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical. The second-degree prohibition does not apply to sexual abuse of a vulnerable adult.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 357 (Senator Benson, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland Department of Aging; Carroll, Harford, Montgomery, and St. Mary’s counties; towns of Bel Air and Leonardtown; 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 Public Safety and Correctional Services; Department of State Police; Office of Administrative Hearings; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2022
rh/lgc Third Reader - April 11, 2022
Revised - Amendment(s) - April 11, 2022

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