



State of Maryland

GOVERNOR'S TASK FORCE ON CHILD ABUSE AND NEGLECT

90 State Circle
Annapolis, Maryland 21401
January, 1984

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Task Force Counsel

The Honorable Harry Hughes
Governor of Maryland
State House
Annapolis, Maryland 21401

Dear Governor Hughes:

The preliminary report of the Task Force on Child Abuse and Neglect is hereby transmitted to you with recommendations for administrative action and proposed legislation. The Task Force, organized in 1983 on the recommendation of the General Assembly (Senate Joint Resolution No. 16), has held ten public hearings, received testimony, and compiled extensive information on the major issues associated with child abuse and neglect. The Task Force has also examined the enforcement of child abuse and neglect laws and administrative policies.

In formulating the recommendations for administrative and legislative action presented in the preliminary report, the Task Force studied testimony and documents from local and state officials, private organizations, individuals, protective services workers, health professionals, parents, teachers, and other citizens who submitted petitions or who suggested ways the State should address child abuse and neglect. The testimony received at the public hearings clearly established the epidemic proportions of the sexual, physical, and emotional abuse of children in our society.

In Maryland, the number of reported child abuse cases more than doubled from 2,597 in 1977 to 5,843 in 1982. Despite the fact that most cases of child abuse and neglect go unreported, the number of reported child sexual abuse cases has more than tripled from 294 cases in 1976 to 1,033 cases in 1982.

Victims of incest and physical abuse who had reached adulthood testified about the long range impact the abuse had on their lives, including physical problems requiring medical treatment, emotional problems requiring professional counseling even at age 35, difficulty in employment and relationships with others, marital

SUMMARY OF PRELIMINARY RECOMMENDATIONS
FOR LEGISLATIVE ACTION

The Task Force Subcommittee on Legislative Action reviewed the effectiveness of the child abuse and neglect laws and considered testimony on the enforcement of these laws. The Task Force finds that the proposed legislation will greatly assist in protecting children from abuse and neglect. A summary of each proposed bill and a brief statement of the rationale is presented in this section. The proposed bills are included in Appendix III.

CHILD ABUSE AND NEGLECT - FAILURE TO REPORT - PENALTIES - This bill imposes a penalty for the failure to report suspected child abuse or neglect. Professionals and others would then be alerted to their legal responsibility to report. The bill provides a fine not to exceed \$1,000 if an individual fails to report either suspected abuse or neglect.

RATIONALE - ~~Most cases of child abuse and neglect go unreported. In order to address the problems created by abuse and neglect, the cases must be reported to the appropriate agency. No sanctions are presently imposed, although the law requires reporting. This bill would assure the increased reporting of child abuse and neglect.~~

CHILD ABUSE - INVESTIGATIONS This bill requires that a protective services unit or a law enforcement agency initiate an investigation within 24 hours after receiving a report of child abuse. In addition, law enforcement agencies and protective services units are required to establish written agreements and joint investigation procedures by January 1, 1985. By July 1, 1985, the law requires that investigators assigned to cases of child sexual abuse be specially trained and that a joint investigative approach be used in cases of child sexual abuse.

RATIONALE - Current Department of Human Resources regulations require that investigations be initiated within 24 hours of a report. The bill would codify this requirement. The joint agreements for an investigation are essential for a comprehensive handling of child abuse. The requirements for the mandated joint investigative approach to child sexual abuse cases and special training of investigators are needed to assure effective responses to these situations.

CHILD ABUSE AND NEGLECT - VISITATION AND CUSTODY - This bill expressly requires a court to restrict or deny custody or visitation rights to a party if abuse or neglect has previously occurred and there is any likelihood that abuse or neglect may continue to occur. The court may deny custody or visitation or order supervised visitation in such cases.

→ how I read it → (... one or the other ...) → (no third choice)



DEPARTMENT OF HUMAN RESOURCES

STATE OF MARYLAND 1105 NORTH EUTAW STREET BALTIMORE, MARYLAND 21201

BILL NO: SB 320 **COMMITTEE:** Judicial Proceedings

TITLE: Child Abuse and Neglect - Visitation and Custody

DHR POSITION: Support with amendments

The Department of Human Resources supports SB 320, but wishes to suggest an amendment, attached.

Experience of the agency indicates that there are numerous difficulties inherent in managing and validating cases of suspected abuse or neglect when they involve hotly contested child custody situations. These problems are exacerbated by unclear jurisdictional boundaries between Equity Court and Juvenile Court, lack of procedures for making information available to both courts, lack of clear role for the local department of social services when the alleged abuser is the non-custodial parent, and difficulty in validating allegations especially in cases of suspected sexual abuse.

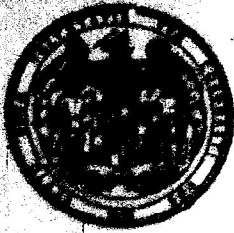
This bill attempts to alleviate some of the difficulty by requiring that the Equity Court take specific protective steps on behalf of the child, but does not go far enough in describing how the court shall determine "whether abuse or neglect is likely to occur", or in untangling some of the boundary questions raised above.

We are concerned that the court, in reaching a decision on custody and visitation, have available information from local departments of social services regarding prior reports of abuse or neglect for any individual case.

Additionally, we would want the court to report any allegations of abuse or neglect that arose during a custody proceeding to the local department of social services, so that an investigation could be made. The results of the investigation would be sent to the court to be used in reaching a decision on custody and visitation.

Handwritten: Judicial
Mach details
reporting

FOR ADDITIONAL INFORMATION CONTACT: Dale Balfore, Annapolis 269-2920



COMMITTEE REPORT SYSTEM SUMMARY OF COMMITTEE REPORT

Senate Judicial Proceedings Committee

Prepared by the Department of Legislative Reference 1984

SENATE BILL 320

CHILD ABUSE AND NEGLECT - VISITATION AND CUSTODY

SPONSORS:

Senators Winegrad and Yeager (Governor's Task Force on
Child Abuse and Neglect)

SUMMARY OF BILL:

CURRENT LAW

The current visitation and custody statute does not address the effect of a finding of ~~child abuse and neglect~~ on a party's visitation or custody rights.

THE LAW AS CHANGED BY THE BILL

According to the bill, as amended, if the court has reasonable grounds to believe that a child has been abused or neglected by a party to a custody or visitation proceeding, the court must determine whether abuse or neglect is likely to occur if custody or visitation rights are granted to the party and must order the local department of social services to report within 7 days the findings of any reports of abuse which have been received. If suspected abuse or neglect has not been previously investigated, the bill requires the local department to conduct an investigation and report the results in writing to the court within 7 days.

Unless the court has reasonable grounds to believe that there is no likelihood of further abuse, the court must deny custody or visitation rights to that party. The court may, however, approve a supervised visitation arrangement which assures the safety of the child.

BACKGROUND:

Currently, the equity court has overall responsibility for decisions in child custody and visitation cases. When such

cases involve children who may be victims of abuse or neglect, however, the equity court refers the cases to the juvenile court. The juvenile court can make custody and visitation decisions only if abuse has occurred. If no factual evidence exists, the case is referred back to the equity court.

(Source: Department of Health and Mental Hygiene position paper).

LEGISLATIVE INTENT:

2 The intent of Senate Bill 320 is to require a court either to prohibit visitation or custody or approve a supervised visitation arrangement if the court has reasonable grounds to believe that child abuse or neglect has occurred and there is likelihood of further abuse or neglect by the party.

The purpose of the bill is to provide for more expeditious decisionmaking in custody or visitation cases involving suspected child abuse or neglect.

COMMITTEE AMENDMENTS:

3 The Committee adopted 3 amendments.

AMENDMENT NO. 1:

with - This is a technical amendment to the purpose paragraph to reflect substantive change in the body of the bill.

AMENDMENT NO. 2:

5 This amendment clarifies that "local department" means the local Department of Social Services in the jurisdiction where the alleged abuse occurred, or, if unknown, where the child lives.

The other change is a technical one for renumbering.

AMENDMENT NO. 3:

4 This amendment adds a requirement that if the court has reasonable grounds to believe abuse or neglect has occurred, the court must order the local department to investigate and report back to the court, within 7 days, the department's findings. This amendment was adopted at the suggestion of Dr. Charles Shubin.

Whereas the bill, as introduced, requires the court to deny custody or visitation rights unless the court "specifically finds" that there is no likelihood of further abuse or neglect, this amendment requires the court to deny visitation or custody rights unless the court has "reasonable grounds to believe" that there is no likelihood of further abuse or neglect. This amendment was adopted because of the concern of the committee that it is unlikely for a court to find specifically whether there is a likelihood of further abuse or neglect.

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CHAIRMAN'S SIGNATURE:

Summary of Committee Report for S.B. 320.
Reported FAVORABLY WITH AMENDMENTS by the
Committee on Judicial Proceedings on _____

Thomas V. Mike Miller, Jr.
Chairman

CS/mep

BY: The Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 320
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, after "circumstances;" insert "requiring local Departments of Social Services to make certain reports and conduct certain investigations under specific circumstances; defining a certain term;".

AMENDMENT NO. 2

On page 2, after line 1, insert "(A) IN THIS SECTION, 'LOCAL DEPARTMENT' MEANS THE LOCAL DEPARTMENT OF SOCIAL SERVICES IN THE JURISDICTION WHERE THE ALLEGED ABUSE OR NEGLECT OCCURRED, OR, IF UNKNOWN, WHERE THE CHILD LIVES."; and in line 2, strike "(A)" and substitute "(B)".

AMENDMENT NO. 3

On page 2, after line 6, insert "(C) (1) IF THE COURT HAS REASONABLE GROUNDS TO BELIEVE THAT A CHILD HAS BEEN ABUSED OR NEGLECTED BY A PARTY TO THE PROCEEDING, THE COURT SHALL ORDER THE LOCAL DEPARTMENT TO REPORT IN WRITING TO THE COURT, WITHIN 7 DAYS, WHETHER THE LOCAL DEPARTMENT HAS RECEIVED ANY REPORTS OF ABUSE OR NEGLECT OF THE CHILD BY THE PARTY, AND IF SO, THE LOCAL DEPARTMENT'S FINDINGS.

(2) IF THE SUSPECTED ABUSE OR NEGLECT HAS NOT BEEN PREVIOUSLY INVESTIGATED, THE LOCAL DEPARTMENT SHALL CONDUCT AN INVESTIGATION, AND REPORT THE RESULTS IN WRITING TO THE COURT WITHIN 7 DAYS."; in line 7, strike "(B)" and substitute "(D)"; and in the same line, strike "SPECIFICALLY FINDS" and substitute "HAS REASONABLE GROUNDS TO BELIEVE".