

Department of Legislative Services  
Maryland General Assembly  
2002 Session

FISCAL NOTE

House Bill 1350  
Judiciary

(Delegate Pitkin, *et al.*)

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Child Abuse - Investigations - Stay of Court Proceedings

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This bill alters the method of calculating the 48-hour time period within which a mandated reporter must make a written report of suspected child abuse or neglect. It requires a local department of social services that receives a report of suspected abuse to immediately notify in writing the appropriate law enforcement agency. Social services and law enforcement must enter into a written cooperative arrangement that specifies standard operating procedures to jointly ensure that each report of suspected abuse is thoroughly investigated. The bill then eliminates law enforcement from the existing agencies that must have a written agreement with standard operating procedures for investigation and prosecution of suspected abuse.

The bill makes it a misdemeanor subject to a fine of up to \$1,000 for any person who is required to investigate or make a report of suspected abuse or neglect to willfully and knowingly fail to do so. The court must stay any custody or visitation proceeding that involves an investigation into reported suspicion of abuse or neglect until the required investigation is complete. The court may stay the proceeding further if an individual requests a contested case hearing on a finding of indicated or unsubstantiated abuse.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues due to the bill's penalty provision.

**Local Effect:** It is expected that the bill's provisions, including the joint investigation requirements, could be handled using existing resources.

**Small Business Effect:** None.

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## Analysis

**Current Law:** Each health practitioner, police officer, educator, or human service worker: (1) who has reason to believe that a child has been subjected to abuse must notify the local department of social services (DSS) or appropriate law enforcement agency; and (2) who has reason to believe that a child has been subjected to neglect, must notify the local department of social services. This notification must be made orally as soon as possible. It must be followed by a written report to DSS not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect. For cases of suspected abuse, it must additionally be followed by a written report to the local State's Attorney. Each agency that receives an oral report of suspected abuse must immediately notify the other agency (the method of report is not specified).

DSS, law enforcement, the State's Attorney within each county and Baltimore City, the DSS office responsible for child care regulations, and the local health officer must enter into a written agreement that specifies standard operating procedures for the investigation and prosecution of reported cases of suspected abuse. DSS or law enforcement, or both if jointly agreed on, must make a thorough investigation of a report of suspected abuse. DSS must make a thorough investigation of a report of suspected neglect. These investigations must be made in accordance with specified timelines and guidelines. The statutes mandate and outline a joint investigation procedure for conducting joint investigations of sexual abuse.

Abuse is defined as: (1) the physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed; or (2) sexual abuse of a child, whether physical injuries are sustained or not.

There is no criminal penalty for willful failure to report or investigate suspected abuse or neglect, although mandated reporters may face professional sanctions such as license suspension or revocation. Although a court must determine whether abuse or neglect is likely to occur in making custodial or visitation decisions when the court has reasonable grounds to believe a child has been abused or neglected by a party to the proceeding, there is no requirement that the court stay proceedings while an abuse or neglect investigation is pending.

**Background:** There was a total of 11,864 physical abuse investigations statewide in fiscal 2001 and 11,650 in fiscal 2000. Baltimore City historically has had the highest annual rate of abuse and neglect investigations per thousand children aged 19 or younger.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision. It is expected that the number of people convicted of the proposed crime of failing to report child abuse or neglect would be minimal.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced as HB 121 in the 1999 session. It received an unfavorable report from the Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Prince George's County, Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2002  
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