

Department of Legislative Services
 Maryland General Assembly
 2008 Session

FISCAL AND POLICY NOTE

Senate Bill 241 (Senator Kelley, *et al.*)
 Judicial Proceedings

Child Welfare - Reports of Children at Substantial Risk of Abuse or Neglect

This bill applies reporting and investigating requirements to children who may be at substantial risk of abuse or neglect (in addition to those children suspected of being subjected to abuse or neglect). A person must notify the local department of social services or the appropriate law enforcement agency if the person has reason to believe that a child is at substantial risk of abuse or neglect because the child’s caretaker regularly permits the child to associate with certain individuals as specified in the bill.

Fiscal Summary

State Effect: General fund expenditures for additional staff in the Department of Human Resources could increase by \$287,700 in FY 2009. Out-years reflect annualization, inflation, and a stable caseload. General fund expenditures in the Judiciary could increase minimally from an increase in the number of Child in Need of Assistance (CINA) petitions that could require additional judicial resources and trial time. Revenues would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	287,700	354,800	372,400	390,900	410,400
Net Effect	(\$287,700)	(\$354,800)	(\$372,400)	(\$390,900)	(\$410,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Potential significant increase in expenditures in some jurisdictions to conduct additional investigations and provide additional family services as required by the bill. For some jurisdictions, expenditures could be minimal or absorbed within existing resources. Expenditures for circuit courts could increase minimally to the extent that additional CINA petitions are filed.

Small Business Effect: None.

Analysis

Bill Summary: A health practitioner, medical examiner, coroner, police officer, parole and probation agent, educator, human services worker, or computer technician acting in a professional capacity in this State must notify the local department or the appropriate law enforcement agency if the worker has reason to believe that a child is at substantial risk of abuse or neglect because the child is regularly permitted by a parent, guardian, or caregiver to associate with an individual who:

- is identified in the central registry as an individual responsible for child abuse or neglect;
- has been convicted of the crimes of child abuse, child sexual abuse, or a crime of violence against a child; or
- committed an act in another state equivalent to the aforementioned acts.

A worker is not required to provide notice if ● it would violate the attorney-client privilege established in State law; ● the notice would disclose confidential information communicated by a client to his/her attorney or other information relating to the client's representation; or ● the disclosure would violate any constitutional right to assistance of counsel.

Each worker who notifies the appropriate authorities of the substantial risk of child abuse or neglect must make an oral report as soon as possible to the local department or the appropriate law enforcement agency and a written report no later than 48 hours after the contact, examination, attention, or treatment that caused the worker to believe the child is at substantial risk of abuse or neglect. To the extent reasonably possible, a worker who makes a report must include information about the child, the child's parents, the circumstances that led to the suspicion that the child is at substantial risk of abuse or neglect, and any other information that would help to determine the cause of the substantial risk and the individual responsible.

If the worker is acting as a staff member at a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, the worker must immediately notify and give all required information to the head of the institution or that individual's designee.

A local department or law enforcement agency may receive a report of substantial risk of abuse or neglect. A law enforcement agency must immediately refer the report to the local department and, if requested by the local department, provide, within 48 hours, any necessary information to confirm or deny a conviction for any of the aforementioned crimes that indicate substantial risk of abuse or neglect.

The Secretary of Human Resources must adopt regulations on eliciting information from individuals that provide a report of substantial risk of abuse or neglect and adopt regulations to define “substantial risk of abuse or neglect.”

After confirming that the report’s allegations regarding an individual who is the subject of the report are true, the local department must thoroughly investigate the allegations. This may be done jointly with a law enforcement agency. If a subsequent report is received about an individual with a history of child abuse or neglect that alleges substantially the same facts as a report previously investigated by the local department, the local department may decline to investigate.

Within five days after receiving a substantial risk report, the local department or law enforcement agency must see the child, attempt an on-site interview with the caregiver and the individual identified as having the history of abuse or neglect, and decide on the safety and the level of risk to the child and other children in the individual’s care and custody. To the extent possible, an investigation must be completed within 10 days after receipt of the report; otherwise an investigation has to be completed within 60 days.

If the local department determines that the child is not safe or is at substantial risk of abuse or neglect, the local department must offer services to the family and must immediately decide whether to file a CINA petition. The child’s caregiver and the individual identified with the history of abuse or neglect must be notified within 30 days of the local department’s determination of the safety and level of risk to the child.

The bill applies the local department’s duties relating to expungement of reports and records to a person who is the subject of a substantial risk report. The bill also applies the immunity from civil liability that applies to other reporters of abuse and neglect to those who make reports of substantial risk of abuse or neglect.

Current Law: Statutory requirements regarding the reporting of child abuse and neglect apply if the reporter suspects that abuse or neglect has occurred. State law does not establish reporting requirements if a reporter believes that a child may be at substantial risk of abuse or neglect.

Health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity and have reason to believe that a child has been subjected to abuse must notify the local department of social services or the appropriate law enforcement agency. If the worker has reason to believe a child has been subjected to neglect, then that person must notify the local department. 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.

In general, 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 must notify the local department of social services or the appropriate law enforcement agency. If the person has reason to believe a child has been subjected to neglect, then that person must notify the local department. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute.

Within 30 days after completion of an investigation of child abuse and neglect in which there is a finding of either indicated or unsubstantiated abuse or neglect, the local department must notify the individual alleged to have abused or neglected the child of the finding and the opportunity to appeal the finding, as specified in statute. If the finding is for indicated abuse or neglect, the individual must also be notified that he/she is subject to identification in a central registry of individuals responsible for abuse or neglect. If the finding is for unsubstantiated abuse or neglect, an individual may request a conference with a supervisor in the local department by responding to the notice within 60 days. The individual has the right to review a summary of the conference and request a contested case hearing, as provided by statute.

The local department must expunge a report of suspected abuse or neglect, all assessments, and investigative findings if the local department concludes that the report is unsubstantiated and no further reports of abuse or neglect are received during the next five years. The local department must expunge such a report within 120 days if the report is ruled out and no further reports of abuse or neglect are received during the next 120 days. DHR must automatically expunge information on an individual from the registry without a request if no entry has been made for seven years. A person who makes or participates in a report generally has immunity from civil liability, as provided in statute.

Except for identifying information, a central registry of individuals responsible for child abuse or neglect may not include information from the case file until the individual alleged responsible for abuse or neglect has been found guilty of criminal charges arising

from the allegation of abuse or neglect, has unsuccessfully appealed the finding, or has failed to exercise appeal rights. The authority of DHR to identify an individual in a central registry as responsible for abuse or neglect applies only to those individuals who have been found guilty of the criminal charge arising from the allegation or if the individual has been found responsible for the abuse or neglect and has unsuccessfully appealed the finding or failed to exercise appeal rights.

State and Local Fiscal Effect:

Judiciary: General fund expenditures could increase minimally in the Judiciary as a result of additional resources needed to address increased CINA petitions. After the local department determines that a child is at substantial risk of abuse or neglect, the local department must decide whether to file a petition alleging that the child is a CINA. Since the cases in this bill address children at risk of abuse or neglect, rather than children that are suspected of being abused or neglected, the local department may be more likely to offer services to the family, rather than petition for guardianship of children who may be at risk of abuse or neglect but have not actually experienced abuse or neglect. The Department of Legislative Services (DLS) advises that the impact of the bill's provisions is expected to be minimal.

Department of Human Resources: According to revised fiscal 2005 data (the latest data available) Child Protective Services investigated 31,501 reports of child abuse and neglect resulting in 6,196 indicated findings. The largest incidences of investigations with indicated findings occurred in the counties with large populations. For example, Baltimore City had, by far, the largest number of investigations of any local jurisdiction with 6,518 investigations and 1,802 investigations with indicated findings of abuse or neglect. Prince George's County had 3,440 investigations with 542 investigations indicating abuse or neglect. Baltimore County had 3,056 investigations with 659 investigations indicating abuse or neglect. Montgomery County had 2,989 investigations with 429 investigations indicating abuse or neglect, while Anne Arundel County had 2,965 investigations with 504 investigations indicating abuse or neglect.

Baltimore City indicated that the bill could have a significant fiscal impact. The Baltimore City Department of Social Services advises that 19 more caseworkers at a cost of \$1.2 million could be needed. This local department advises that 400 investigations are initiated per month on average. The bill is expected to increase that monthly average to at least 675 investigations per month. **Exhibit 1** is a two month snapshot of activity in the Baltimore City Department of Social Services:

Exhibit 1

Baltimore City Child Protective Services – Monthly Activity Report

<u>November 2007</u>	<u>December 2007</u>
2,126 calls	1,743 calls
<i>Investigations Initiated</i>	<i>Investigations Initiated</i>
770 maltreatment	358 maltreatment
296 physical abuse	128 physical abuse
403 neglect	196 neglect
72 sexual abuse	34 sexual abuse

Source: Baltimore City Department of Social Services/Mayor's Office of Government Relations

As of January 23, 2008 the local department advises that 3,584 calls were taken and 84 investigations were initiated within one week.

DHR advises that the local department projections from Baltimore City likely include the impact of understaffing on the current workload, which is acknowledged to be a problem. If just the additional work generated by this bill is considered, however, this local department will need some additional resources, but not the magnitude of resources indicated in the local department's fiscal estimate. Also, DHR advises that the bulk of any new staffing resources that would be provided under this bill would be allocated to Baltimore City.

On the other hand, in some jurisdictions the impact of this bill could be minimal, even negligible. Montgomery County has advised that the bill could be implemented with existing resources. Allegany County completed 663 investigations in fiscal 2005 with 262 of those indicating abuse or neglect and advised the bill would have no fiscal impact.

Based on this information, general fund expenditures could increase by \$287,662 in fiscal 2009, accounting for the bill's October 1, 2008 effective date. This estimate reflects the costs associated with six additional family service workers to conduct investigations of households where children could be reported to be at substantial risk of abuse or neglect. The estimate includes salaries, fringe benefits, one-time start-up costs, and other ongoing operating expenses. DHR advises that fiscal 2007 expenditures for salaries and fringe benefits for child protective services workers are projected to total \$49.4 million for 783 positions. Updated information for fiscal 2008 is not available at this time.

Child Welfare League of America’s caseload standards indicate that a worker should handle 6 new investigations per month, for a total of 72 investigations per year. This estimate assumes that 6 family services workers would have a caseload of 72 new investigations per year. The estimate assumes that DHR could receive about 480 new reports for suspected risk or abuse or neglect per year. The number of reports of substantial risk of abuse or neglect could vary significantly from the estimate; nevertheless the estimate is reasonable given the multitude of factors that could impact the number of reports made.

The referrals for suspected abuse or neglect are expected to generate an increase in the caseload for in-home services, which DHR advises could be absorbed within existing resources.

It is also possible that some of the individuals or families that could be investigated under this bill would already be under investigation due to previous incidences of abuse or neglect. The bill specifically provides that a local department may decline to make an investigation of a report if there was a previous report received regarding an individual with a history of child abuse or neglect that alleges substantially the same facts as were previously investigated. DHR advises that individuals responsible for violent acts toward children could be different from those found to be responsible for child abuse or neglect and added to those subject to reporting under this bill.

Positions	6
Salaries and Fringe Benefits	\$249,307
Office Space	9,450
Other Operating Expenses	<u>28,905</u>
Total FY 2009 State Expenditures	\$287,662

Future year expenditures reflect: (1) full salaries with 4.4% annual increases and 3% employee turnover; (2) 2% annual increases in ongoing operating expenses; and (3) a stable caseload.

State Police: The Department of State Police advises that it acts as the local police department in Carroll County only; therefore, the bill’s requirements could be met with existing resources.

Additional Information

Prior Introductions: This bill is similar to SB 792/HB 1124 of 2007. Both bills received no action after being heard by the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. This bill is also similar to SB 935/HB 1474 of 2006. Both bills were withdrawn after being heard.

Cross File: HB 400 (Delegate Dumais) – Judiciary.

Information Source(s): Department of Human Resources, Department of State Police, Allegany County, Baltimore City, Montgomery County, Prince George’s County, Talbot County, Wicomico County, Department of Legislative Services

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mcp/hlb

Analysis by: Karen D. Morgan

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