

**Department of Legislative Services**  
Maryland General Assembly  
2008 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 243

(Senator Kelley, *et al.*)

Judicial Proceedings

Judiciary

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**Child Abuse and Neglect - Additional Professions and Failure to Report - Penalty**

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This bill adds medical examiners and parole and probation agents to those workers who, when they are acting in a professional capacity, are required to report suspected incidences of child abuse or neglect. The bill also makes it a misdemeanor for a worker in a professional capacity who is required to provide notice or to report suspected child abuse or neglect to knowingly fail to provide the required notice or report. A violator is guilty of a misdemeanor and is subject to a maximum fine of \$1,000. The bill exempts a medical examiner from making an oral or written report within specified timeframes. Instead, the Office of the Chief Medical Examiner is required to send a copy of the autopsy report of a child that may have been subjected to abuse or neglect to the appropriate authorities.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues due to the bill's monetary penalty provision. The bill's requirements could be enforced with existing resources.

**Local Effect:** None.

**Small Business Effect:** None.

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## Analysis

### Current Law:

*Penalties for Failure to Report:* State law does not criminalize the failure of a worker to report suspected abuse or neglect. The licensing boards for some workers who are mandated to report child abuse and neglect (nurses, doctors, and social workers are examples) are authorized to discipline workers for failing to report.

*Mandatory Reporters:* Health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who 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. An “educator or human service worker” includes any teacher, counselor, social worker, caseworker, and parole or probation officer. 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.

A worker who notifies the appropriate authorities must make an oral report by telephone or direct communication as soon as possible to the local department or the appropriate law enforcement agency if the worker has reason to believe the child has been subjected to abuse. If the worker has reason to believe the child has been subjected to neglect, then the individual must make an oral report to the local department. A written report to the local department is required not later than 48 hours after the contact, examination, or treatment that caused the worker to believe that the child had been subjected to abuse or neglect. A copy of the written report must be provided to the local State’s Attorney if the worker has reason to believe the child has been subjected to abuse.

An agency that receives an oral report of suspected abuse must immediately notify the other agency. Local departments and law enforcement agencies are not prohibited from agreeing to cooperative arrangements.

As far as reasonably possible, a worker who makes a report must include the name, age, and home address of the child; the name and home address of the child’s parent or other person responsible for the child’s care; the whereabouts of the child and the nature and extent of the child abuse or neglect. The report must include any available evidence about previous instances of abuse or neglect, and any information that would help to determine the cause of the suspected abuse or neglect and the identity of any person responsible for the abuse or neglect.

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.

**Background:**

*Mandatory Reporters:* According to the Child Welfare Information Gateway, every state and the District of Columbia have laws that identify those people who are required to report suspected incidences of child abuse and neglect. As of 2005 (the latest information available), 48 states and the District of Columbia specify professions for which the mandatory reporting requirements apply. Typically, mandated reporters include school personnel, social workers, health care workers, child care providers, medical examiners or coroners and law enforcement officers. The other two states, New Jersey and Wyoming, do not specify professional workers who are required to report, but require all persons to report suspected child abuse or neglect. At least 18 states, including Maryland, require all citizens to report suspected abuse or neglect regardless of profession. In Maryland, however, the reporting requirements for a citizen are less stringent than the reporting requirements for covered professionals.

According to the latest information available, at least 26 states and the District of Columbia require medical examiners to report suspected child abuse or neglect. At least 14 states require parole and probation officers to report. **Exhibit 1** shows those states that mandate reporting by medical examiners and parole and probation officers.

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**Exhibit 1**  
**Mandatory Reporters/Child Abuse or Neglect**

<b><u>Medical Examiners</u></b>	<b><u>Parole and Probation Officers</u></b>
Alabama	Arkansas
Arkansas	California
California	Connecticut
Colorado	Hawaii
Connecticut	Illinois
Delaware	Louisiana
District of Columbia	Maryland
Florida	Massachusetts
Hawaii	Missouri
Illinois	Nevada
Kentucky	South Dakota
Louisiana	Vermont
Maine	Virginia
Massachusetts	Washington
Michigan	
Missouri	
Montana	
Nevada	
New Hampshire	
New York	
North Dakota	
Pennsylvania	
South Carolina	
Tennessee	
Vermont	
Washington	
Wisconsin	

Source: Child Welfare Information Gateway

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In addition to the above listed states, Indiana, Minnesota, Rhode Island, Virginia, and West Virginia generally require any licensed medical personnel to report suspected child abuse or neglect. North Carolina requires a professional worker from any institution to report suspected incidences.

*Failure to Report Penalties:* According to the Child Welfare Information Gateway, as of 2007, 46 states and the District of Columbia impose penalties on mandatory reporters who knowingly or willfully fail to report suspected child abuse or neglect. The states that do not impose a penalty, in addition to Maryland, are Maine, North Carolina, and Wyoming.

In 38 of the 46 states that impose penalties, the penalty is a misdemeanor. The eight states that do not use the misdemeanor classification for the failure to report penalty are Connecticut, Delaware, Massachusetts, Mississippi, New Jersey, Vermont, Virginia, and Wisconsin. In Arizona, Florida, and Minnesota, misdemeanors become felonies for the failure to report serious or life-threatening situations. In Illinois, a second conviction for failure to report is a felony.

A mandated reporter who fails to report can face jail terms ranging from 10 days to 5 years and/or fines ranging from \$100 to \$5,000. In Arkansas, Colorado, Iowa, Michigan, Montana, New York, and Rhode Island, mandatory reporters who fail to report face civil liability for any damages arising from that failure as well as criminal penalties.

**State Revenues:** General fund revenues could increase minimally under the bill's monetary penalty provision for those cases that are heard in the District Court.

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### **Additional Information**

**Prior Introductions:** Legislation that would have made the failure to report a misdemeanor was considered in the 2005, 2004, and 2003 sessions. SB 106/HB 845 of 2005 received unfavorable reports from the Senate Judicial Proceedings Committee and the House Judiciary Committee, respectively. The penalty provisions in this bill are similar to those contained in SB 98/HB510 of 2004. SB 98 passed the Senate, as amended, on second reading, but was then re-referred to Judicial Proceedings, where it received no further action. HB 510 was heard by the House Judiciary Committee, but was then withdrawn. Another similar bill, SB 195 of 2003, passed the Senate as amended, then received an unfavorable report from Judiciary.

**Cross File:** None.

**Information Source(s):** Department of Human Resources, Child Welfare Information Gateway, Department of Legislative Services

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