

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 897
 Judiciary

(Delegate Hough, *et al.*)

Professional Licensing and Certification Governing Bodies - Child Abuse
 Mandated Reporter Training and Discipline

This bill requires each governing body authorized to issue a license or certificate to a health practitioner, police officer, educator, or human service worker who is required to report child abuse or neglect to adopt specified regulations.

Fiscal Summary

State Effect: General fund expenditures increase by \$212,400 in FY 2014 for the Maryland State Department of Education (MSDE) to hire staff to investigate allegations of instances in which an educator did not report child abuse or sex abuse. Future year expenditures are annualized and adjusted for inflation. The Department of Health and Mental Hygiene can handle the bill’s requirements using existing resources. Revenues are not affected.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	212,400	277,100	289,900	303,400	317,400
Net Effect	(\$212,400)	(\$277,100)	(\$289,900)	(\$303,400)	(\$317,400)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The regulations must (1) require each licensee or certificate holder to complete training in the recognition of child abuse and child sex abuse as a condition of licensure or certification; (2) require the investigation of a licensee or certificate holder that the governing body has probable cause to believe has failed to report child abuse or child sex abuse as required; and (3) provide for the discipline of a licensee or certificate holder found to have knowingly failed to report child abuse or child sex abuse as required. The disciplinary actions provided in adopted regulations may include (1) reprimanding the licensee or certificate holder; (2) placing the licensee or certificate holder on probation; or (3) suspending or revoking a license or certificate. The bill may not be construed to prohibit a governing body from taking any other disciplinary action authorized by law.

Current Law:

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 or neglect, 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 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 also 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 or neglect. 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. An agency that receives an oral report of suspected abuse or neglect must immediately notify the other agency.

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 or neglect must notify the local department of social services or the appropriate law enforcement agency. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute. Individuals (other than those who are required to report because of their professional capacity) who in good faith make or participate in making a report of abuse or neglect or participate in an investigation or resulting judicial proceeding are immune from civil liability or criminal penalties.

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 impose sanctions on licensees for failing to report.

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 August 2012, 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 four states (Louisiana, Oregon, Virginia, and Washington) designate as mandatory reporters faculty, administrators, athletics staff, and other employees and volunteers at institutions of higher learning, including public and private colleges and universities and vocational and technical schools.

Training of School Employees

It is estimated that one in four girls and one in six boys will have experienced an episode of sexual abuse while younger than 18 years. Many sexually abused children exhibit

physical and behavioral symptoms. *Practical Strategies for School Counselors* developed by MSDE lists some of these indicators of sexual abuse.

MSDE reports that because educators are required to report child abuse and neglect under the Family Law Article, all local school systems provide training to all school personnel on child abuse and neglect policies and procedures. According to statute, child abuse specifically includes sexual abuse. The training also includes symptoms of child abuse and neglect as well as the related programs and services available. As part of the curriculum, local school systems also have a child abuse and neglect awareness and prevention education program for all students.

State Expenditures: General fund expenditures increase by \$212,429 in fiscal 2014, which reflects the bill's October 1, 2013 effective date. This estimate reflects the cost of hiring two investigators within MSDE to conduct investigations when MSDE has probable cause to believe that a licensee or certificate holder has failed to suspect child abuse or child sex abuse. An administrative assistant is also required to assist with the generation of reports, establish a data system to maintain the information, and handle initial inquiries regarding the alleged violation. While MSDE already has regulations for the suspension or revocation of a certificate if a certificate holder fails to report suspected child abuse, it anticipates that the requirement of investigations in all instances in which there is probable cause that an individual has failed to report will generate additional work for MSDE, which is responsible for issuing certificates for over 260,000 educators throughout the State. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses

Positions	3
Salaries and Fringe Benefits	\$198,155
Operating Expenses and Start-up Costs	<u>14,274</u>
Total FY 2014 State Expenditures	\$212,429

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: SB 570 (Senator Shank, *et al.*) - Judicial Proceedings and Education, Health, and Environmental Affairs.

Information Source(s): Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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