

HOUSE BILL 1248

D4

(2lr2512)

ENROLLED BILL

— Judiciary/Judicial Proceedings —

Introduced by **Delegate Valentino-Smith**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Child Abuse and Neglect – Investigations – Timeliness**

3 FOR the purpose of *requiring the State Department of Human Services to implement policies*
4 *requiring a local department of social services or the appropriate law enforcement*
5 *agency that fails to conduct a child abuse or neglect investigation or complete a*
6 *certain report within certain statutory time frames to report the delay and the reason*
7 *for the delay in a certain manner; requiring the Department to assess certain studies*
8 *and methodologies, develop a certain assessment, and complete the assessment by*
9 *certain dates; and generally relating to the timeliness of conducting and completing*
10 *investigations of child abuse and neglect.*

11 BY repealing and reenacting, with amendments,

12 Article – Family Law

13 Section 5-706

14 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



(2019 Replacement Volume and 2021 Supplement)

BY adding to

Article – Family Law

Section 5–706(t) and (u)

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Family Law

5–706.

(a) (1) In this section, “alternative response” means a component of the child protective services program that provides for a comprehensive assessment of:

- (i) risk of harm to the child;
- (ii) risk of subsequent child abuse or neglect;
- (iii) family strengths and needs; and
- (iv) the provision of or referral for necessary services.

(2) “Alternative response” does not include:

- (i) an investigation; or
- (ii) a formal determination as to whether child abuse or neglect has occurred.

(b) Promptly after receiving a report of suspected abuse or neglect of a child who lives in this State that is alleged to have occurred in this State, the local department or the appropriate law enforcement agency, or both, if jointly agreed on, shall make a thorough investigation of a report of suspected abuse or neglect to protect the health, safety, and welfare of the child or children.

(c) Within 24 hours after receiving a report of suspected physical or sexual abuse of a child who lives in this State that is alleged to have occurred in this State, and within 5 days after receiving a report of suspected neglect or suspected mental injury of a child who lives in this State that is alleged to have occurred in this State, the local department or the appropriate law enforcement agency shall:

- (1) see the child;

1 (2) attempt to have an on-site interview with the child's caretaker;

2 (3) decide on the safety of the child, wherever the child is, and of other
3 children in the household; and

4 (4) decide on the safety of other children in the care or custody of the
5 alleged abuser.

6 (d) The investigation under subsection (c) of this section shall include:

7 (1) a determination of the nature, extent, and cause of the abuse or neglect,
8 if any;

9 (2) if mental injury is suspected, an assessment by two of the following:

10 (i) a licensed physician, as defined in § 14-101 of the Health
11 Occupations Article;

12 (ii) a licensed psychologist, as defined in § 18-101 of the Health
13 Occupations Article; ~~or~~

14 (iii) a licensed social worker, as defined in § 19-101 of the Health
15 Occupations Article; **OR**

16 **(IV) A CLINICAL PROFESSIONAL COUNSELOR LICENSED UNDER**
17 **TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE;** and

18 (3) if the suspected abuse or neglect is verified:

19 (i) a determination of the identity of the person or persons
20 responsible for the abuse or neglect;

21 (ii) a determination of the name, age, and condition of any other
22 child in the household;

23 (iii) an evaluation of the parents and the home environment;

24 (iv) a determination of any other pertinent facts or matters; and

25 (v) a determination of any needed services.

26 (e) On request by the local department, the local State's Attorney shall assist in
27 an investigation under subsections (c) and (d) of this section.

28 (f) The local department, the appropriate law enforcement agencies, the State's
29 Attorney within each county and Baltimore City, the local department's office responsible

1 for child care regulation, the local health officer, and the local child advocacy center shall
2 enter into a written agreement that specifies standard operating procedures for the
3 investigation under subsections (c) and (d) of this section and prosecution of reported cases
4 of suspected abuse or neglect.

5 (g) (1) The agencies responsible for investigating reported cases of suspected
6 sexual abuse, including the local department, the appropriate law enforcement agencies,
7 and the local State's Attorney, shall implement a joint investigation procedure for
8 conducting joint investigations of sexual abuse under subsections (c) and (d) of this section.

9 (2) The joint investigation procedure shall:

10 (i) include appropriate techniques for expediting validation of
11 sexual abuse complaints;

12 (ii) include investigation techniques designed to:

13 1. decrease the potential for physical harm to the child; and

14 2. decrease any trauma experienced by the child in the
15 investigation and prosecution of the case;

16 (iii) establish an ongoing training program for personnel involved in
17 the investigation or prosecution of sexual abuse cases; and

18 (iv) include screening to determine whether a child is a victim of sex
19 trafficking.

20 (h) (1) To the extent possible, an investigation under subsections (c) and (d) of
21 this section shall be completed within 10 days after receipt of the first notice of the
22 suspected abuse or neglect by the local department or law enforcement agencies.

23 (2) An investigation under subsections (c) and (d) of this section that is not
24 completed within 30 days shall be completed within 60 days of receipt of the first notice of
25 the suspected abuse or neglect.

26 (i) Within 5 business days after completion of the investigation of suspected
27 abuse of a child who lives in this State that is alleged to have occurred in this State, the
28 local department and the appropriate law enforcement agency, if that agency participated
29 in the investigation, shall make a complete written report of its findings to the local State's
30 Attorney.

31 (j) Promptly after receiving a report of suspected abuse or neglect of a child who
32 lives in this State that is alleged to have occurred outside of this State, the local department
33 shall:

1 (1) forward the report to the appropriate agency outside of this State that
2 is authorized to receive and investigate reports of suspected abuse or neglect;

3 (2) cooperate to the extent requested with the out-of-state agency
4 investigating the report; and

5 (3) if determined appropriate by the local department:

6 (i) interview the child to assess whether the child is safe; and

7 (ii) provide services to the child and the child's family.

8 (k) Notwithstanding the provisions of this section, the Secretary may implement
9 an alternative response program for selected reports of abuse or neglect.

10 (l) (1) The Department shall convene a multidisciplinary alternative response
11 advisory council.

12 (2) The advisory council shall consist of the following members:

13 (i) the Secretary of Human Services, or the Secretary's designee;

14 (ii) the Secretary of Health, or the Secretary's designee;

15 (iii) the State Superintendent of Schools, or the Superintendent's
16 designee;

17 (iv) a representative from the Maryland Disability Law Center;

18 (v) a representative from a child advocacy organization;

19 (vi) a representative from a community partner or a local service
20 provider;

21 (vii) a pediatrician with experience in diagnosing and treating
22 injuries related to abuse and neglect;

23 (viii) an attorney with experience representing children or adults in
24 abuse and neglect cases;

25 (ix) a representative from the Office of the Public Defender;

26 (x) a parent or guardian who has personal experience with the child
27 protective services system;

28 (xi) a child who has personal experience with the child protective
29 services system;

1 (xii) two representatives from local departments of social services;
2 and

3 (xiii) two representatives from local citizens review panels.

4 (3) The Secretary of Human Services or the Secretary's designee shall be
5 the chair of the advisory council.

6 (4) The advisory council shall advise the Department on:

7 (i) the development of the alternative response implementation
8 plan, which may include a pilot program;

9 (ii) oversight and monitoring of the alternative response
10 implementation plan;

11 (iii) consulting with local citizens review panels, local services
12 affiliates, and other local partners for feedback and recommendations on the alternative
13 response implementation plan;

14 (iv) defining the scope of the independent evaluation of the
15 implementation of the alternative response program; and

16 (v) defining the scope of the ongoing evaluation of the alternative
17 response program.

18 (m) Only a low risk report of abuse or neglect may be considered for an alternative
19 response.

20 (n) A report that is not assigned for an alternative response shall be assigned for
21 investigation in accordance with this section.

22 (o) The following reports of suspected abuse or neglect may not be assigned for an
23 alternative response:

24 (1) sexual abuse; and

25 (2) abuse or neglect:

26 (i) occurring in an out-of-home placement;

27 (ii) resulting in death or serious physical or mental injury;

28 (iii) if, in the previous 3 years, the individual suspected of abuse or
29 neglect has been identified as responsible for abuse or neglect as documented in the records
30 of the local department; or

1 (iv) if the individual suspected of abuse or neglect has had one report
2 assigned for an alternative response within the past 12 months or two reports assigned for
3 an alternative response within the past 24 months.

4 (p) A report assigned for an alternative response may be reassigned at any time
5 for an immediate investigation based on any of the following factors and circumstances:

6 (1) a reassessment of the report or relevant facts;

7 (2) a determination that the case satisfies a criterion in subsection (o) of
8 this section; or

9 (3) a family's inability or refusal to participate in the alternative response
10 assessment.

11 (q) A report assigned for an investigation may be reassigned for an alternative
12 response at any time based on:

13 (1) a reassessment of the report or relevant facts that demonstrate that the
14 case meets the criteria for an alternative response;

15 (2) a determination that accepted services would address all issues of risk
16 of abuse or neglect and child safety; and

17 (3) approval by a caseworker supervisor.

18 (r) When a report is referred for an alternative response, the local department
19 shall:

20 (1) see the child and the child's parent or primary caretaker within 24
21 hours of receiving a report of physical abuse;

22 (2) see the child and the child's parent or primary caretaker within 5 days
23 of receiving a report of neglect;

24 (3) attempt to have an on-site interview with the child's parent or primary
25 caretaker;

26 (4) evaluate the child's home environment;

27 (5) decide on the safety of the child, wherever the child is, and of other
28 children in the household;

29 (6) decide on the safety of other children in the care or custody of the
30 individual suspected of abuse or neglect;

1 (7) advise the appropriate law enforcement agency that the report has been
2 assigned for an alternative response, if the law enforcement agency made the report of
3 abuse or neglect;

4 (8) inform the individual suspected of child abuse or neglect of the
5 allegations made against the individual in a manner consistent with laws protecting the
6 rights of the person who made the report;

7 (9) complete an alternative response assessment within 60 days after the
8 receipt of the report;

9 (10) within 10 days after completing the alternative response assessment,
10 provide a written report to the family members who are participating in the alternative
11 response assessment as to whether and what services are necessary to address:

12 (i) the safety of the child or other children in the household; and

13 (ii) the risk of subsequent abuse or neglect; and

14 (11) consistent with the assessment and any safety or services plans:

15 (i) render any appropriate services in the best interests of the child;

16 (ii) refer the family or child for additional services; or

17 (iii) as necessary for the safety of the child or other children in the
18 household, establish a plan to monitor the safety plan and the provision or completion of
19 appropriate services.

20 (s) The local department:

21 (1) shall:

22 (i) maintain complete records related to an alternative response and
23 services for 3 years after the report was received if there is no subsequent child welfare
24 involvement; and

25 (ii) expunge complete records related to an alternative response and
26 services if there is no subsequent child welfare involvement after 3 years;

27 (2) may not use or disclose records related to an alternative response for
28 purposes of responding to a request for background information for employment or
29 voluntary services; and

30 (3) shall protect from disclosure records related to an alternative response
31 in accordance with § 1–202 of the Human Services Article.

~~(T) (1) A LOCAL DEPARTMENT THAT FAILS TO CONDUCT AN INVESTIGATION OR COMPLETE A REPORT WITHIN THE TIME FRAMES REQUIRED BY THIS SECTION SHALL:~~

~~(I) REPORT THE DELAY AND THE REASON FOR THE DELAY TO THE SUPERVISOR WITHIN THE LOCAL DEPARTMENT; AND~~

~~(H) MAINTAIN A RECORD OF THE DELAY AND THE REASON FOR THE DELAY IN THE CHILD'S CASE FILE MAINTAINED BY THE LOCAL DEPARTMENT.~~

~~(2) A LOCAL DEPARTMENT SUPERVISOR WHO RECEIVES A REPORT OF A DELAY UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL REVIEW AND SIGN THE REPORT.~~

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Family Law

5-706.

(T) THE DEPARTMENT SHALL IMPLEMENT POLICIES TO ENSURE THAT IF A LOCAL DEPARTMENT OR THE APPROPRIATE LAW ENFORCEMENT AGENCY FAILS TO SEE A CHILD IN ACCORDANCE WITH THE TIME FRAMES ESTABLISHED UNDER SUBSECTION (C) OF THIS SECTION:

(1) THE REASON FOR THE DELAY IS DOCUMENTED IN THE CHILD'S CASE FILE; AND

(2) A SUPERVISOR AT THE LOCAL DEPARTMENT:

(I) IS NOTIFIED OF THE DELAY IN ORDER TO SUPPORT STAFF IN MAKING INITIAL CONTACT WITH THE CHILD; AND

(II) REVIEWS THE DOCUMENTATION REQUIRED UNDER ITEM (1) OF THIS SUBSECTION DURING THE REVIEW OF THE FINAL INVESTIGATION REPORT.

(U) (1) THE DEPARTMENT SHALL PREPARE AND ISSUE A QUARTERLY REPORT IDENTIFYING INVESTIGATIONS OR REPORTS THAT ARE NOT COMPLETED WITHIN THE TIME FRAMES REQUIRED BY THIS SECTION.

(2) THE REPORTS REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE AN EXPLANATION FOR EACH DELAY, COMPILED BY THE DEPARTMENT OF HUMAN RESOURCES WITH INPUT FROM THE LOCAL DEPARTMENTS.

1 **(3) ON OR BEFORE DECEMBER 1, 2022, AND EACH DECEMBER 1**
 2 **THEREAFTER, THE DEPARTMENT SHALL, SUBJECT TO § 2-1257 OF THE STATE**
 3 **GOVERNMENT ARTICLE, REPORT TO THE GENERAL ASSEMBLY ON THE PROGRESS**
 4 **OF LOCAL DEPARTMENTS IN COMPLYING WITH THE TIME FRAMES FOR CONDUCTING**
 5 **INVESTIGATIONS AND COMPLETING REPORTS UNDER THIS SECTION.**

6 SECTION 3. AND BE IT FURTHER ENACTED, That:

7 (a) On or before December 1, 2023, the State Department of Human Services shall:

8 (1) assess studies and methodologies related to analyzing workloads in
 9 child welfare systems; and

10 (2) report to the Joint Audit and Evaluation Committee, the Senate Budget
 11 and Taxation Committee, and the House Appropriations Committee, in accordance with §
 12 2-1257 of the State Government Article, on a plan to develop a child welfare workload
 13 assessment in the State based on best practices and the assessments made under item (1) of
 14 this subsection.

15 (b) On or before December 1, 2024, the State Department of Human Services shall:

16 (1) complete the child welfare workload assessment developed under
 17 subsection (a) of this section; and

18 (2) report to the Joint Audit and Evaluation Committee, the Senate Budget
 19 and Taxation Committee, and the House Appropriations Committee, in accordance with §
 20 2-1257 of the State Government Article, on:

21 (i) the outcome of the assessment;

22 (ii) a plan to address understaffing in the State's child welfare
 23 system;

24 (iii) estimates of the cost to address understaffing in the State's child
 25 welfare system; and

26 (iv) the benefits to children and families in the State of a properly
 27 staffed child welfare system.

28 SECTION ~~2~~ 4 AND BE IT FURTHER ENACTED, That this Act shall take effect
 29 October 1, 2022. ~~§~~ Section 2 of this Act shall remain effective for a period of 5 years and, at
 30 the end of September 30, 2027, Section 2 of this Act, with no further action required by the
 31 General Assembly, shall be abrogated and of no further force and effect.