

SENATE BILL 820

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CF HB 1248

By: **Senator Lam (By Request – Joint Audit and Evaluation Committee)**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Committee amendments withdrawn, March 5, 2022

Senate action: Adopted with substitute committee amendments, March 5, 2022

Read second time: March 5, 2022

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
4 policies requiring a local department of social services or the appropriate law
5 enforcement agency that fails to conduct a child abuse or neglect investigation or
6 complete a certain report within certain statutory time frames to report the delay
7 and the reason for the delay in a certain manner; requiring the Department to assess
8 certain studies and methodologies, develop a certain assessment, and complete the
9 assessment by certain dates; and generally relating to the timeliness of conducting
10 and completing 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
15 (2019 Replacement Volume and 2021 Supplement)

16 BY adding to
17 Article – Family Law
18 Section 5–706(t) and (u)
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2021 Supplement)

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.



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

3 **Article – Family Law**

4 5–706.

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

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

11 (2) “Alternative response” does not include:

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

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

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

- 25 (1) see the child;
- 26 (2) attempt to have an on–site interview with the child’s caretaker;
- 27 (3) decide on the safety of the child, wherever the child is, and of other
28 children in the household; and
- 29 (4) decide on the safety of other children in the care or custody of the
30 alleged abuser.

- 1 (d) The investigation under subsection (c) of this section shall include:
- 2 (1) a determination of the nature, extent, and cause of the abuse or neglect,
3 if any;
- 4 (2) if mental injury is suspected, an assessment by two of the following:
- 5 (i) a licensed physician, as defined in § 14–101 of the Health
6 Occupations Article;
- 7 (ii) a licensed psychologist, as defined in § 18–101 of the Health
8 Occupations Article; ~~or~~
- 9 (iii) a licensed social worker, as defined in § 19–101 of the Health
10 Occupations Article; **OR**
- 11 **(IV) A CLINICAL PROFESSIONAL COUNSELOR LICENSED UNDER**
12 **TITLE 17 OF THE HEALTH OCCUPATIONS ARTICLE**; and
- 13 (3) if the suspected abuse or neglect is verified:
- 14 (i) a determination of the identity of the person or persons
15 responsible for the abuse or neglect;
- 16 (ii) a determination of the name, age, and condition of any other
17 child in the household;
- 18 (iii) an evaluation of the parents and the home environment;
- 19 (iv) a determination of any other pertinent facts or matters; and
- 20 (v) a determination of any needed services.
- 21 (e) On request by the local department, the local State’s Attorney shall assist in
22 an investigation under subsections (c) and (d) of this section.
- 23 (f) The local department, the appropriate law enforcement agencies, the State’s
24 Attorney within each county and Baltimore City, the local department’s office responsible
25 for child care regulation, the local health officer, and the local child advocacy center shall
26 enter into a written agreement that specifies standard operating procedures for the
27 investigation under subsections (c) and (d) of this section and prosecution of reported cases
28 of suspected abuse or neglect.
- 29 (g) (1) The agencies responsible for investigating reported cases of suspected
30 sexual abuse, including the local department, the appropriate law enforcement agencies,
31 and the local State’s Attorney, shall implement a joint investigation procedure for
32 conducting joint investigations of sexual abuse under subsections (c) and (d) of this section.

1 (2) The joint investigation procedure shall:

2 (i) include appropriate techniques for expediting validation of
3 sexual abuse complaints;

4 (ii) include investigation techniques designed to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (l) (1) The Department shall convene a multidisciplinary alternative response
5 advisory council.

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

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

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

9 (iii) the State Superintendent of Schools, or the Superintendent's
10 designee;

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

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

13 (vi) a representative from a community partner or a local service
14 provider;

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

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

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

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

22 (xi) a child who has personal experience with the child protective
23 services system;

24 (xii) two representatives from local departments of social services;
25 and

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

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

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

- 1 (i) the development of the alternative response implementation
2 plan, which may include a pilot program;
- 3 (ii) oversight and monitoring of the alternative response
4 implementation plan;
- 5 (iii) consulting with local citizens review panels, local services
6 affiliates, and other local partners for feedback and recommendations on the alternative
7 response implementation plan;
- 8 (iv) defining the scope of the independent evaluation of the
9 implementation of the alternative response program; and
- 10 (v) defining the scope of the ongoing evaluation of the alternative
11 response program.
- 12 (m) Only a low risk report of abuse or neglect may be considered for an alternative
13 response.
- 14 (n) A report that is not assigned for an alternative response shall be assigned for
15 investigation in accordance with this section.
- 16 (o) The following reports of suspected abuse or neglect may not be assigned for an
17 alternative response:
- 18 (1) sexual abuse; and
- 19 (2) abuse or neglect:
- 20 (i) occurring in an out-of-home placement;
- 21 (ii) resulting in death or serious physical or mental injury;
- 22 (iii) if, in the previous 3 years, the individual suspected of abuse or
23 neglect has been identified as responsible for abuse or neglect as documented in the records
24 of the local department; or
- 25 (iv) if the individual suspected of abuse or neglect has had one report
26 assigned for an alternative response within the past 12 months or two reports assigned for
27 an alternative response within the past 24 months.
- 28 (p) A report assigned for an alternative response may be reassigned at any time
29 for an immediate investigation based on any of the following factors and circumstances:
- 30 (1) a reassessment of the report or relevant facts;

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

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

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

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

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

11 (3) approval by a caseworker supervisor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (s) The local department:

13 (1) shall:

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

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

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

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

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

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

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

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

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

6 Article – Family Law

7 5–706.

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

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

14 (2) A SUPERVISOR AT THE LOCAL DEPARTMENT:

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

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

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

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

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

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

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

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

5 (2) report to the Joint Audit and Evaluation Committee, the Senate Budget
6 and Taxation Committee, and the House Appropriations Committee, in accordance with §
7 2-1257 of the State Government Article, on a plan to develop a child welfare workload
8 assessment in the State based on best practices and the assessments made under item (1)
9 of this subsection.

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

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

14 (2) report to the Joint Audit and Evaluation Committee, the Senate Budget
15 and Taxation Committee, and the House Appropriations Committee, in accordance with §
16 2-1257 of the State Government Article, on:

17 (i) the outcome of the assessment;

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

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

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

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