

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1019
Judiciary

(Delegate McComas)

Child Abuse and Neglect – Reports and Records – Disclosure (Anderson’s Law)

This bill requires specified reports and records of child abuse and neglect to be disclosed on request after the State’s Attorney has been provided time to redact information that, if released, would seriously hinder the ability for criminal prosecution.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under current law, generally, reports and records concerning child abuse and neglect are confidential and may not be disclosed unless permitted by one of a number of statutory exceptions. However, the director of a local department of social services or the Secretary of Human Services must, on request, disclose information concerning child abuse or neglect if (1) the information is limited to actions or omissions of the local department, the Department of Human Services (DHS), or an agent of DHS; (2) the child named in a report has suffered a fatality or near fatality; and (3) the local director or the Secretary has consulted the State’s Attorney’s office. In addition to consulting with the State’s Attorney’s office, the Secretary and a local director must consult each other.

Prior to disclosure under current law, the local director or the Secretary must also be advised by the State's Attorney that disclosure of the information would not jeopardize or prejudice a related investigation or prosecution. If information is not disclosed due to the advice of the State's Attorney, the State's Attorney must notify the local director or the Secretary within 10 days after the conclusion of the related investigation or prosecution; within 30 days after this notification, the local director or the Secretary must disclose the information in accordance with statutory provisions. The bill repeals these provisions and instead requires the State's Attorney's office to be provided 30 business days after the consultation (with the local director/Secretary) to redact from the record to be released any portion of the record that, if made public, would seriously hinder the ability of the State's Attorney to prosecute a criminal case arising from the incident.

Section 1-203(d) of the Human Services Article requires a local director or the Secretary to disclose specified information, including:

- the name of the allegedly abused or neglected child who has suffered a fatality;
- the date of the report of the alleged child abuse or neglect and of any prior or subsequent reports;
- the findings made by the local department at the conclusion of its investigation and the related disposition based on the findings;
- any services provided to (or referrals for professional services for) the alleged abuser or neglecter, the allegedly abused or neglected child, and household or family members;
- any prior adjudication as a child in need of assistance of the allegedly abused or neglected child, a sibling of the child, or another child in the household, family, or care of the alleged abuser/neglector;
- the status of any case involving the child that was open at the time of the fatality or near fatality;
- a summary of the facts of the fatality or near fatality, including the date of the fatality or near fatality, and in the case of a fatality, the cause of death reported by the medical examiner; and
- any information concerning the circumstances of the alleged child abuse or neglect and the investigation of the circumstances, if the local director or the Secretary determines that the disclosure is consistent with the public interest.

The local director and the Secretary are prohibited under current law from disclosing certain information, including the identity of an individual who made a report, the name of a child who has suffered a near fatality, the names of other family members of the allegedly abused or neglected child, and medical reports other than those related to the cause of the child's injury or death as a result of the alleged abuse or neglect.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 1246 of 2022.

Designated Cross File: None.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Department of Human Services; Department of Legislative Services

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km/lgc

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