

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 89

(Senator James)

Judicial Proceedings

Judiciary

Child Abuse and Neglect - Reports and Records - Disclosure

This bill alters statutory provisions that govern, in certain circumstances involving the fatality or near fatality of a child, the disclosure of related reports and records. The bill requires a local director (of a local department of social services) or the Secretary of Human Services to disclose, within 30 days of receiving a request, information concerning child abuse or neglect if the child (1) was in the custody of a local or State department or agency, or in the care of a foster parent; (2) is the subject of an investigation, a report, a referral, or a complaint received by a local/State department or agency; and (3) suffered a fatality or near fatality. Disclosed information under these circumstances remains limited to actions or omissions of the local department, the Department of Human Services (DHS), or an agent of DHS. On receiving a request for disclosure, the Secretary of Human Services must promptly notify the State's Attorney's office. The office must then have 30 days to redact from the record any portion of the record that, if made public, would seriously hinder the ability of the office to prosecute a criminal case arising from the incident.

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, under current law, 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, 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. Prior to disclosure under these circumstances, 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. The bill repeals these provisions, instead requiring disclosure under the circumstances and procedures as specified above.

Under current law, 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 makes conforming changes to these provisions, instead requiring the State's Attorney, if any information was redacted, to notify the local director or the Secretary within 10 days after conclusion of the related investigation or prosecution. The bill further removes a requirement that, before disclosing the information, the local director and the Secretary must also consult with each other (in addition to consulting the State's Attorney).

Statute specifies the following as information that must be disclosed by a local director or the Secretary:

- 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 (and the number of 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 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

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 631 and HB 1019 of 2023 and HB 1246 of 2022.

Designated Cross File: None.

Information Source(s): Montgomery County; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2024
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