

HOUSE BILL 644

D4

4lr0986

By: **Delegate Crutchfield**

Introduced and read first time: January 25, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law – Caretaker Bill of Rights**

3 FOR the purpose of requiring a local department of social services or a law enforcement
4 agency to provide a certain notice to a parent or caretaker of a child at a certain time
5 during an investigation of suspected child abuse or neglect; excluding evidence
6 obtained in violation of this Act from being used in certain judicial or administrative
7 proceedings; and generally relating to child abuse and neglect.

8 BY repealing and reenacting, with amendments,
9 Article – Family Law
10 Section 5–706
11 Annotated Code of Maryland
12 (2019 Replacement Volume and 2023 Supplement)

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

15 **Article – Family Law**

16 5–706.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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;

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

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

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

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

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

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

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

(ii) a licensed psychologist, as defined in § 18–101 of the Health Occupations Article;

(iii) a licensed social worker, as defined in § 19–101 of the Health Occupations Article; or

(iv) a clinical professional counselor licensed under Title 17 of the Health Occupations Article; and

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

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

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

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

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

(v) a determination of any needed services.

(E) (1) AT THE TIME OF INITIAL CONTACT WITH THE CHILD'S PARENT OR CARETAKER DURING THE INVESTIGATION REQUIRED UNDER THIS SECTION, THE LOCAL DEPARTMENT OR THE APPROPRIATE LAW ENFORCEMENT AGENCY SHALL PROVIDE THE PARENT OR CARETAKER WITH ORAL AND WRITTEN NOTICE THAT, EXCEPT AS OTHERWISE PROVIDED BY LAW:

(I) THE PARENT OR CARETAKER IS NOT REQUIRED TO ALLOW THE INVESTIGATOR TO ENTER THE RESIDENCE OF THE PARENT OR CARETAKER, UNLESS THE ENTRY IS ORDERED BY A COURT OR IS AUTHORIZED BY § 5-709 OF THIS SUBTITLE;

(II) THE PARENT OR CARETAKER IS ENTITLED TO BE INFORMED OF ALL OF THE ALLEGATIONS BEING INVESTIGATED;

(III) THE PARENT OR CARETAKER IS NOT REQUIRED TO SPEAK WITH THE INVESTIGATOR WITHOUT AN OPPORTUNITY TO CONSULT AN ATTORNEY AND IS ENTITLED TO HAVE AN ATTORNEY REVIEW ANY DOCUMENTS BEFORE AGREEING TO SIGN;

(IV) THE PARENT OR CARETAKER IS NOT REQUIRED TO ALLOW THE INVESTIGATOR TO INTERVIEW OR EXAMINE A CHILD, UNLESS THE INTERVIEW OR EXAMINATION IS ORDERED BY A COURT OR IS REQUIRED UNDER SUBSECTION (C) OR (K) OF THIS SECTION;

(V) THE PARENT OR CARETAKER IS NOT REQUIRED, UNLESS ORDERED BY A COURT, TO AGREE TO ANY REQUEST MADE BY AN INVESTIGATOR, INCLUDING TAKING A DRUG OR ALCOHOL TEST OR SUBMITTING TO A MENTAL HEALTH EVALUATION;

(VI) ANY STATEMENT MADE BY THE PARENT, CARETAKER, OR OTHER FAMILY MEMBER OR OCCUPANT OF THE HOME MAY BE USED AGAINST THE PARENT OR CARETAKER IN AN ADMINISTRATIVE OR COURT PROCEEDING;

(VII) THE INVESTIGATOR IS NOT AN ATTORNEY AND MAY NOT PROVIDE LEGAL ADVICE TO THE PARENT OR CARETAKER;

(VIII) THE PARENT OR CARETAKER IS NOT REQUIRED TO SIGN ANY DOCUMENT PRESENTED BY THE INVESTIGATOR, INCLUDING A RELEASE OF CLAIMS, A SERVICE AGREEMENT, OR A RELEASE OF MEDICAL INFORMATION FOR THE PARENT OR CHILD; AND

(IX) THE EXERCISE OF ANY OF THE RIGHTS DESCRIBED IN THIS PARAGRAPH, INCLUDING REFUSING TO SPEAK WITH THE INVESTIGATOR OR DENYING ENTRY INTO THE HOME, MAY HAVE SERIOUS CONSEQUENCES, WHICH MAY INCLUDE THE INVESTIGATOR FILING A PETITION FOR THE REMOVAL OF THE CHILD FROM THE HOME OF THE PARENT OR CARETAKER.

(2) (I) THE NOTICE PROVIDED TO A PARENT OR CARETAKER UNDER THIS SUBSECTION SHALL BE WRITTEN IN A CLEAR, SIMPLE MANNER AND IN A LANGUAGE THAT WILL BE UNDERSTOOD BY THE PARENT OR CARETAKER.

(II) IF THE PARENT OR CARETAKER IS UNABLE TO READ, OR ON REQUEST, THE INVESTIGATOR SHALL READ THE NOTICE TO THE PARENT OR CARETAKER.

(3) (I) THE INVESTIGATOR SHALL REQUEST THAT THE PARENT OR CARETAKER SIGN AND DATE THE NOTICE DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION AS EVIDENCE OF HAVING RECEIVED THE NOTICE.

(II) IF THE PARENT OR CARETAKER REFUSES TO SIGN AND DATE THE NOTICE, THE INVESTIGATOR SHALL SPECIFICALLY INDICATE ON THE NOTICE THAT THE PARENT OR CARETAKER WAS REQUESTED TO SIGN AND DATE THE NOTICE AND REFUSED TO DO SO.

(III) THE INVESTIGATOR SHALL SIGN THE NOTICE AS WITNESS TO THE PARENT'S OR CARETAKER'S REFUSAL TO SIGN THE NOTICE, IF APPLICABLE.

(IV) THE INVESTIGATOR SHALL PROVIDE THE PARENT OR CARETAKER WITH A COPY OF THE SIGNED NOTICE AT THE TIME OF THE INVESTIGATOR'S INITIAL FACE-TO-FACE CONTACT WITH THE PARENT OR CARETAKER.

1 **(4) IF THE INVESTIGATOR FAILS TO COMPLY WITH ANY PROVISION OF**
2 **THIS SUBSECTION, ANY EVIDENCE OBTAINED IN VIOLATION OF THIS SUBSECTION**
3 **SHALL BE EXCLUDED IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDINGS ARISING**
4 **FROM THE INVESTIGATION.**

5 ~~[(e)]~~ **(F)** On request by the local department, the local State's Attorney shall
6 assist in an investigation under subsections (c) and (d) of this section.

7 ~~[(f)]~~ **(G)** The local department, the appropriate law enforcement agencies, the
8 State's Attorney within each county and Baltimore City, the local department's office
9 responsible for child care regulation, the local health officer, and the local child advocacy
10 center shall enter into a written agreement that specifies standard operating procedures
11 for the investigation under subsections (c) and (d) of this section and prosecution of reported
12 cases of suspected abuse or neglect.

13 ~~[(g)]~~ **(H)** (1) The agencies responsible for investigating reported cases of
14 suspected sexual abuse, including the local department, the appropriate law enforcement
15 agencies, and the local State's Attorney, shall implement a joint investigation procedure for
16 conducting joint investigations of sexual abuse under subsections (c) and (d) of this section.

17 (2) The joint investigation procedure shall:

18 (i) include appropriate techniques for expediting validation of
19 sexual abuse complaints;

20 (ii) include investigation techniques designed to:

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

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

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

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

28 ~~[(h)]~~ **(I)** (1) To the extent possible, an investigation under subsections (c) and
29 (d) of this section shall be completed within 10 days after receipt of the first notice of the
30 suspected abuse or neglect by the local department or law enforcement agencies.

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

1 **[(i)] (J)** Within 5 business days after completion of the investigation of
2 suspected abuse of a child who lives in this State that is alleged to have occurred in this
3 State, the local department and the appropriate law enforcement agency, if that agency
4 participated in the investigation, shall make a complete written report of its findings to the
5 local State's Attorney.

6 **[(j)] (K)** Promptly after receiving a report of suspected abuse or neglect of a child
7 who lives in this State that is alleged to have occurred outside of this State, the local
8 department shall:

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

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

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

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

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

16 **[(k)] (L)** Notwithstanding the provisions of this section, the Secretary may
17 implement an alternative response program for selected reports of abuse or neglect.

18 **[(l)] (M)** (1) The Department shall convene a multidisciplinary alternative
19 response advisory council.

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

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

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

23 (iii) the State Superintendent of Schools, or the Superintendent's
24 designee;

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

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

27 (vi) a representative from a community partner or a local service
28 provider;

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

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

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

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

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

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

(xiii) two representatives from local citizens review panels.

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

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

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

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

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

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

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

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

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

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

(1) sexual abuse; and

(2) abuse or neglect:

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

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

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

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

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

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

(2) a determination that the case satisfies a criterion in subsection **[(o)] (P)** of this section; or

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

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

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

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

(3) approval by a caseworker supervisor.

[(r)] (S) When a report is referred for an alternative response, the local department shall:

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

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

- 1 (3) attempt to have an on-site interview with the child's parent or primary
2 caretaker;
- 3 (4) evaluate the child's home environment;
- 4 (5) decide on the safety of the child, wherever the child is, and of other
5 children in the household;
- 6 (6) decide on the safety of other children in the care or custody of the
7 individual suspected of abuse or neglect;
- 8 (7) advise the appropriate law enforcement agency that the report has been
9 assigned for an alternative response, if the law enforcement agency made the report of
10 abuse or neglect;
- 11 (8) inform the individual suspected of child abuse or neglect of the
12 allegations made against the individual in a manner consistent with laws protecting the
13 rights of the person who made the report;
- 14 (9) complete an alternative response assessment within 60 days after the
15 receipt of the report;
- 16 (10) within 10 days after completing the alternative response assessment,
17 provide a written report to the family members who are participating in the alternative
18 response assessment as to whether and what services are necessary to address:
- 19 (i) the safety of the child or other children in the household; and
- 20 (ii) the risk of subsequent abuse or neglect; and
- 21 (11) consistent with the assessment and any safety or services plans:
- 22 (i) render any appropriate services in the best interests of the child;
- 23 (ii) refer the family or child for additional services; or
- 24 (iii) as necessary for the safety of the child or other children in the
25 household, establish a plan to monitor the safety plan and the provision or completion of
26 appropriate services.

27 [(s)] (T) The local department:

28 (1) shall:

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

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

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

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

[(t)] (U) 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)] (V) (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 with input from the local departments.

(3) On or before December 1, 2022, and each December 1 thereafter, the Department shall, subject to § 2–1257 of the State Government Article, report to the General Assembly on the progress of local departments in complying with the time frames for conducting investigations and completing reports under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.