

# HOUSE BILL 1248

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CF SB 820

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By: **Delegate Valentino-Smith**

Introduced and read first time: February 11, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of requiring a local department of social services that fails to conduct a  
4 child abuse or neglect investigation or complete a certain report within certain  
5 statutory time frames to report the delay and the reason for the delay in a certain  
6 manner; and generally relating to the timeliness of conducting and completing  
7 investigations of 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 2021 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.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) "Alternative response" does not include:

2 (i) an investigation; or

3 (ii) a formal determination as to whether child abuse or neglect has  
4 occurred.

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

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

15 (1) see the child;

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

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

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

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

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

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

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

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

29 (iii) a licensed social worker, as defined in § 19-101 of the Health  
30 Occupations Article; and

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

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

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

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

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

7 (v) a determination of any needed services.

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

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

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

20 (2) The joint investigation procedure shall:

21 (i) include appropriate techniques for expediting validation of  
22 sexual abuse complaints;

23 (ii) include investigation techniques designed to:

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

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

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

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

31 (h) (1) To the extent possible, an investigation under subsections (c) and (d) of

1 this section shall be completed within 10 days after receipt of the first notice of the  
2 suspected abuse or neglect by the local department or law enforcement agencies.

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

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

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

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

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

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

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

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

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

23 (l) (1) The Department shall convene a multidisciplinary alternative response  
24 advisory council.

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

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

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

28 (iii) the State Superintendent of Schools, or the Superintendent's  
29 designee;

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

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

- 1 (vi) a representative from a community partner or a local service  
2 provider;
- 3 (vii) a pediatrician with experience in diagnosing and treating  
4 injuries related to abuse and neglect;
- 5 (viii) an attorney with experience representing children or adults in  
6 abuse and neglect cases;
- 7 (ix) a representative from the Office of the Public Defender;
- 8 (x) a parent or guardian who has personal experience with the child  
9 protective services system;
- 10 (xi) a child who has personal experience with the child protective  
11 services system;
- 12 (xii) two representatives from local departments of social services;  
13 and
- 14 (xiii) two representatives from local citizens review panels.
- 15 (3) The Secretary of Human Services or the Secretary's designee shall be  
16 the chair of the advisory council.
- 17 (4) The advisory council shall advise the Department on:
- 18 (i) the development of the alternative response implementation  
19 plan, which may include a pilot program;
- 20 (ii) oversight and monitoring of the alternative response  
21 implementation plan;
- 22 (iii) consulting with local citizens review panels, local services  
23 affiliates, and other local partners for feedback and recommendations on the alternative  
24 response implementation plan;
- 25 (iv) defining the scope of the independent evaluation of the  
26 implementation of the alternative response program; and
- 27 (v) defining the scope of the ongoing evaluation of the alternative  
28 response program.
- 29 (m) Only a low risk report of abuse or neglect may be considered for an alternative  
30 response.

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

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

5 (1) sexual abuse; and

6 (2) abuse or neglect:

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

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

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

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

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

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

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

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

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

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

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

28 (3) approval by a caseworker supervisor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31          (s)    The local department:

1 (1) shall:

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

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

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

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

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

15 **(I) REPORT THE DELAY AND THE REASON FOR THE DELAY TO**  
16 **THE SUPERVISOR WITHIN THE LOCAL DEPARTMENT; AND**

17 **(II) MAINTAIN A RECORD OF THE DELAY AND THE REASON FOR**  
18 **THE DELAY IN THE CHILD'S CASE FILE MAINTAINED BY THE LOCAL DEPARTMENT.**

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2022.