

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 426

(Senator Reilly)

Finance

Pregnancy Outcomes - Confidential Statistical Reporting Requirements

This bill requires hospitals and facilities to report information regarding abortions to the Department of Health and Mental Hygiene (DHMH). DHMH must adopt regulations necessary to carry out the bill's provisions.

Fiscal Summary

State Effect: General fund expenditures increase by \$83,900 in FY 2012 for the Division of Vital Records within DHMH to hire one full-time research statistician to collect and report on data regarding abortions and for contractual services associated with keying the data collected. Future year expenditures reflect annualization and inflation. DHMH can use existing resources to develop the existing forms and adopt necessary regulations. The administrative and criminal penalty provisions of the bill do not have a material impact on State finances or operations.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	83,900	108,200	112,000	116,000	120,200
Net Effect	(\$83,900)	(\$108,200)	(\$112,000)	(\$116,000)	(\$120,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A facility or hospital (except for a hospital that submits information on pregnancy terminations to the Health Services Cost Review Commission) in which a pregnancy is terminated must report the pregnancy termination to DHMH. The report must be (1) made on a form developed by DHMH; (2) completed by the hospital or facility and signed by the physician who performed the procedure; and (3) transmitted annually to the Vital Statistics Administration in DHMH within 15 days after each reporting year. The report may not include the patient's name, but must include:

- the name of the facility;
- the patient's age, race, marital status, and county and state of residence;
- the patient's number of prior pregnancies and the outcome of each prior pregnancy;
- the estimated gestational age of the fetus at termination;
- the date and method of termination;
- a description of any complications that occurred during the termination (or attempted termination) of the pregnancy; and
- the primary reason provided by the patient for terminating the pregnancy.

In addition, a physician who provides medical care to a patient and determines that medical care is required due to complications resulting from the termination (or attempted termination) of the pregnancy must submit to DHMH within 30 days a report that includes:

- the patient's age and number of prior pregnancies;
- the patient's number and type of prior pregnancy terminations;
- the name and address of the facility where the terminations were performed;
- if known, the gestational age of the fetus at termination and the method of termination;
- the medical treatment provided to the patient to ease or eliminate the complications; and
- the nature and extent of any known permanent condition resulting from the complications.

None of these reports is a public record and each is confidential except to certain law enforcement agencies in accordance with a court order. Based on these reports, DHMH must annually submit to the Governor and General Assembly a comprehensive statistical report, which must both provide for the confidentiality of patients and physicians and be available for public inspection and copying.

A physician who fails to submit a required report under the bill is guilty of unprofessional conduct and subject to disciplinary action by the Board of Physicians. An individual other than a physician who willfully violates the bill's reporting requirements is guilty of a misdemeanor and on conviction is subject to a fine of up to \$500 for each violation. A hospital or facility that does not submit the required reports is subject to an administrative fine of up to \$500 for each violation.

Current Law: The State may not interfere with a woman's decision to end a pregnancy before the fetus is viable or at any time during a woman's pregnancy if the procedure is necessary to protect the life or health of the woman or the fetus is affected by a genetic defect or serious deformity or abnormality. A viable fetus is one that has a reasonable likelihood of surviving outside of the womb.

If an abortion is provided, it must be performed by a licensed physician. A physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion made in good faith and in the physician's best medical judgment following accepted standards of medical practice.

Background: Forty-six states (all but Maryland, California, New Hampshire, and New Jersey) require physicians providing abortions to submit regular and confidential reports to the state. Of these, 27 states require providers to report complications resulting from the abortion procedure and 15 states require providers to give some information about the woman's reason for seeking the procedure.

In 2008, 1.2 million American women obtained abortions, producing a rate of 19.6 abortions per 1,000 women of reproductive age. (This represents a 1% increase since 2005, when the abortion rate was 19.4 abortions per 1,000 women.) In Maryland in 2008, 34,290 women obtained abortions at a rate of 29 abortions per 1,000 women of reproductive age. (This represents an 8% decrease in abortions performed in Maryland since 2000, when the rate was 31.5 abortions per 1,000 women.) However, 87% of U.S. counties had no abortion provider in 2008 and one-third of American women lived in these counties. Therefore, it is likely that some women who received abortions in Maryland were from other states, while some Maryland residents received abortions in other states. For this reason, the Maryland rate may not accurately reflect the abortion rate of State residents. Approximately 4% of abortions performed in Maryland are provided at hospitals.

State Fiscal Effect: General fund expenditures increase by \$83,939 in fiscal 2012, which accounts for the bill's October 1, 2011 effective date. This estimate reflects the cost of services associated with keying data and the cost of hiring one full-time research statistician to collect reported data and annually submit a comprehensive statistical report.

The estimate includes a salary, fringe benefits, one-time start-up costs, contractual services, and ongoing operating expenses.

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Salary and Fringe Benefits	\$47,344
Contractual Services	32,147
Operating Expenses	<u>4,448</u>
Total FY 2012 State Expenditures	\$83,939

Future year expenditures reflect a full salary with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

DHMH anticipates that contractual services are also needed to implement the bill's requirements for developing forms and adopting necessary regulations. However, the Department of Legislative Services advises that, because both the forms and any necessary regulations are not likely to be lengthy or complex, these requirements can be performed by temporarily redirecting resources from other projects. In addition, DHMH advises (and Legislative Services concurs) that the bill's disciplinary requirements can be handled with existing resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Guttmacher Institute, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

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ncs/mwc

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