

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 328 (Delegate Malone)
Health and Government Operations

Health - Tattoo Facilities - Protection of Minors

This bill prohibits an owner, employee, or operator of a tattoo facility from allowing a minor to receive a tattoo unless the minor's parent or legal guardian provides written consent on the premises of the facility and in the presence of the facility's owner, employee, or operator. In addition, the bill specifies that the facility must require appropriate documentation to verify the age of an individual before allowing the individual to receive a tattoo. A violator is subject to civil penalties of up to (1) \$250 for a first violation; (2) \$500 for a second violation; and (3) \$1,000 for each subsequent violation. The bill authorizes the Secretary of Health and Mental Hygiene to adopt regulations to carry out the bill.

Uncodified language states that the bill may not be construed to preempt a county or municipal government from enacting and enforcing more stringent measures to regulate the receipt of tattoos by minors.

Fiscal Summary

State Effect: Minimal increase in general fund revenues, assuming imposition of the bill's penalty provisions. The Department of Health and Mental Hygiene (DHMH) can use existing resources to adopt the required regulations.

Local Effect: Enforcement can be handled with existing resources, assuming enforcement is complaint-based. Local revenues are not affected.

Small Business Effect: Minimal. Tattoo facilities are already prohibited, by regulation, from tattooing a minor without the consent of a parent or guardian.

Analysis

Current Law: Tattooing is regulated under Code of Maryland Regulations (COMAR) provisions applicable to DHMH.

An individual who performs a skin-penetrating body adornment procedure (including tattooing) must disclose the risks of the procedure, obtain the client's written consent for the performance of the procedure, and retain the consent on file for three years. In the case of a minor, the consent of a parent or guardian is required. COMAR provisions do not establish any penalties for individuals who perform a skin-penetrating body adornment procedure upon a minor.

The Public Local Laws of Worcester County establish more rigorous requirements for individuals who perform body adornment procedures in the county. To work as a tattoo artist in Worcester County, a person must be licensed by the county and operate under the supervision of a physician or osteopath. Minors may not be tattooed in the county. Violation of the statute is a misdemeanor, subject to maximum penalties of imprisonment for 180 days and/or a \$500 fine.

The tattooing of a minor is a misdemeanor in Baltimore City, subject to a maximum fine of \$1,000. In Baltimore County, the tattooing of a minor without parental consent is a misdemeanor, subject to maximum penalties of 90 days imprisonment and/or a \$500 fine.

Unless otherwise stated in statute, "minor" refers to an individual younger than age 18.

Background: According to the National Conference of State Legislatures, 43 states have statutes similar to the proposed legislation. (The other 7 states require parental consent by regulation.) Of the states with statutes, 31 states prohibit the tattooing of minors without parental or guardian consent and 12 states prohibit the tattooing of minors regardless of parental consent. Most state laws establish monetary penalties and/or terms of imprisonment for violators.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Conference of State Legislatures; Baltimore, Carroll, Cecil, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Department of Health and Mental Hygiene; Department of Legislative Services

Fiscal Note History: First Reader - February 7, 2012
ncs/mwc

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