

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 242

(Senator Astle)

Finance

Public Health - Forensic Laboratories - Regulation

This bill requires a forensic laboratory to obtain accreditation from a nonprofit accreditation body before applying for a license and submit evidence of accreditation to renew a license. The bill also requires the Secretary of Health and Mental Hygiene to (1) approve a nonprofit accreditation body to accredit forensic laboratories in the State and (2) authorize a nonprofit accreditation body to inspect forensic laboratories before they apply for a license and, after obtaining a license, at least every two years.

Fiscal Summary

State Effect: General fund revenues decrease minimally (by \$2,000 triennially) to reflect decreased fees paid by forensic laboratories under the bill. Expenditures are not affected as most forensic laboratories are already accredited and inspected by the accreditation body rather than the Department of Health and Mental Hygiene (DHMH).

Local Effect: Assuming that most or all local laboratories are already in substantial compliance with the bill's requirements, the bill is not expected to significantly affect local government finances or operations.

Small Business Effect: Potential meaningful increase in expenditures for any privately owned small business forensic laboratory that is unaccredited. Because there are only four unaccredited forensic laboratories in the State, few businesses are affected.

Analysis

Bill Summary/Current Law: Under current law, "forensic laboratory" means a facility, entity, or site that offers or performs forensic analysis (*i.e.*, a medical, chemical,

toxicologic, firearms, or other expert examination or test performed on physical evidence for the purpose of determining the connection of the evidence to a criminal act). “Forensic laboratory” includes a laboratory owned or operated by the State, a county, or municipal corporation in the State or another governmental entity. However, “forensic laboratory” does not include a forensic laboratory operated by the federal government or a laboratory licensed or certified by the Maryland Department of Agriculture.

Chapter 147 of 2007 (SB 351) required the Secretary of Health and Mental Hygiene to adopt regulations that set standards and requirements for forensic laboratories. In addition, to assure compliance with these standards and requirements, the Secretary must conduct (1) an inspection of each forensic laboratory for which a license to operate is sought and (2) an inspection of each forensic laboratory for which a license has been issued.

The bill specifies that a forensic laboratory for which a license has been issued must be inspected at least every two years. In addition, the bill requires the Secretary to authorize a nonprofit accreditation body to conduct the required inspections. The bill also requires a forensic laboratory to obtain accreditation from a State-approved nonprofit accreditation body before applying for a license and to submit to the Secretary evidence of current accreditation as a condition of renewal. The Secretary must approve a nonprofit accreditation body to perform such accreditation in the State.

Chapter 147 also established the Forensic Laboratory Advisory Committee to advise the Secretary on matters relating to the implementation of specified provisions of law related to forensic laboratories. The bill specifies that the committee must advise the Secretary on (1) the review and approval of proficiency testing program providers and requests for a letter of exception and a waiver from licensure requirements; (2) the review and monitoring of proficiency testing programs and complaint investigations; (3) technical review of revisions to specified relevant regulations; and (4) the provision of technical assistance regarding the implementation of specified relevant regulations.

Background: DHMH advises that all 23 forensic laboratories in the State have a permanent State license and that all but 4 are accredited as required by the bill.

State Fiscal Effect: DHMH advises that forensic laboratories that are accredited pay a reduced fee for licensure. Thus, general fund revenues are expected to decrease minimally (by \$2,000 triennially) due to reduced fees paid by the four forensic laboratories in the State that are required to become accredited under the bill.

The bill’s requirement for forensic laboratories to be inspected by an accreditation body – rather than DHMH – is generally consistent with current practice (although it is unclear whether these inspections are being conducted by accreditation bodies with the frequency

required by the bill). Relieving the department of having to inspect the four forensic laboratories that are not already accredited is not expected to have a material effect on State finances.

Because the Department of State Police advises that its Forensic Sciences Division is already in compliance with the bill's requirements, State expenditures for accreditation are not affected.

Additional Information

Prior Introductions: HB 1294 of 2012, a similar bill, received a hearing in the Health and Government Operations Committee, but no further action was taken.

Cross File: HB 1254 (Delegate Costa, *et al.*) - Health and Government Operations and Judiciary.

Information Source(s): Department of Health and Mental Hygiene, Department of State Police, Department of Legislative Services

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