HB 1282

Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1282 (Delegate Schulz, *et al.*)
Health and Government Operations Finance

Public Health - Drug Overdose Deaths - Local Fatality Review Teams

This bill authorizes the establishment of a local drug overdose fatality review team in each county. The bill specifies membership, purpose, and duties for local teams. Additionally, the bill specifies reporting requirements for teams that are created. The bill establishes liability protection for team members and agencies that provide information for team investigations and for information received as a result of participation in the teams.

Fiscal Summary

State Effect: The Department of Health and Mental Hygiene (DHMH) can handle the bill's oversight requirements with existing resources. Potential minimal increase in general fund revenues due to the bill's criminal penalty provisions.

Local Effect: Counties that choose to implement a drug overdose local fatality review team experience operational impacts and likely also incur costs to do so. The impact may be more meaningful for counties with higher numbers of overdose deaths and those that are not already implementing similar programs. To fully implement local fatality review teams statewide, local health departments (LHDs) may need to hire 13 full-time equivalent employees at a cost of approximately $856,124, beginning in FY 2015. Potential minimal increase in expenditures due to the bill's criminal penalty provisions. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Local Overdose Fatality Review Teams

The bill authorizes the establishment of multidisciplinary and multiagency drug overdose fatality review teams in each county; however, two or more counties may agree to establish a single multicounty local team. The bill provides a list of individuals, organizations, agencies, and others with areas of expertise that should be included in local teams, if available. Each local team must elect a chair from its members. Local teams must meet at least quarterly to review the status of drug overdose death cases, recommend actions to improve coordination of services and investigations, and recommend actions within the member agencies to prevent overdose deaths.

The purpose of the local teams is to prevent drug overdose deaths by promoting cooperation and coordination among agencies involved in investigations of drug overdose deaths; developing an understanding of the causes and incidence of drug overdose deaths in the county; developing plans for and recommending changes within the agencies represented on the team to prevent drug overdose deaths; and advising DHMH on changes to law, policy, or practice (including the use of devices that are programmed to dispense medications on a schedule or similar technology), to prevent drug overdose deaths.

Each team must consult with DHMH to establish and implement a protocol for the local team; set a goal of investigating drug overdose deaths in accordance with national standards; and collect, maintain, and report data regarding overdose fatality deaths as required by DHMH.

Health care providers must immediately provide a local team with access to relevant information and records, including information about physical health, mental health, and treatment for substance abuse regarding (1) an individual whose death the team is investigating or (2) an individual whose criminal or delinquent act caused a death or near fatality.

State and local government agencies must provide the local team access to information and records, including death certificates, law enforcement investigative information, medical examiner investigative information, parole and probation information and records, and information and records from a social services agency related to (1) an individual whose death is being reviewed by the team; (2) an individual whose criminal or delinquent acts caused a death or near fatality; or (3) the family of an individual who falls into one of the two categories above.

Privacy Provisions

When a team is discussing individual cases of drug overdose deaths, its meetings must be closed to the public and are not subject to State open meeting laws. If a team is not discussing individual cases of drug overdose deaths, then its meetings must be open to the public and follow State open meeting laws. During public meetings, a team may not disclose information that would identify a deceased individual, people related to them, or an individual whose criminal or delinquent act caused a death or near fatality. Additionally, the team may not disclose information about an agency's involvement with a case the team is investigating.

With some exceptions, information and records obtained in the course of carrying out the purposes and goals of the bill are confidential and exempt from disclosure and may be disclosed only as necessary to carry out the team's purpose and duties. Mental health records and substance abuse treatment records are subject to additional confidentiality requirements. However, statistical compilations and reports from a team that do not contain identifying information should be made public. Information obtained through actions or meetings of a team may not be used in court proceedings. Further, information, documents, or records of a team are not subject to subpoena, discovery, or introduction into evidence.

Violators of the bill's privacy provisions are guilty of a misdemeanor and subject to a maximum fine of $500 and/or imprisonment for up to 90 days.

Current Law/Background: DHMH's Alcohol and Drug Abuse Administration (ADAA) establishes and supports a drug and alcohol abuse service delivery system in the State. ADAA develops, establishes, regulates and promotes, and supports and monitors programs for prevention, treatment, and rehabilitation related to alcohol and drug abuse. It also promotes and conducts substance abuse-related education, training, data collection, and research.

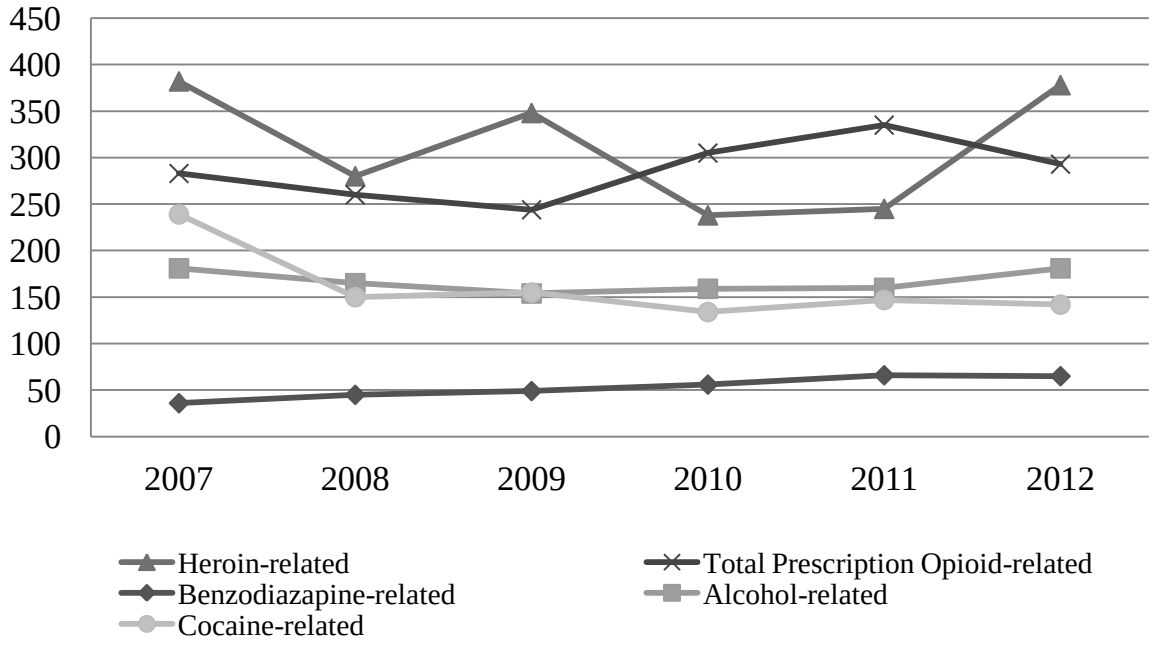
According to ADAA, drug overdoses are a serious public health challenge in Maryland and across the country. During the past decade, national increases in the number of fatal overdoses have been driven primarily by an epidemic of pharmaceutical opioid abuse. In Maryland, deaths related to pharmaceutical opioids increased during this time, while those involving illicit drugs declined. However, in 2012, Maryland experienced a significant shift from pharmaceutical opioids to heroin, mirroring a trend being reported in other states. This trend is shown below in **Exhibit 1**.

In January 2014, CBS reported that, between September 2013 and January 2014, heroin tainted with fentanyl caused 37 deaths in the State. Fentanyl, a synthetic morphine substitute, has been linked to a rash of recent deaths in the region and underscores the severity of overdose deaths in Maryland.

In response to these problems, ADAA recently established three Overdose Fatality Review Pilots that are operating in Baltimore City and Cecil and Wicomico counties. The pilot program, like the program established in the bill, is modeled after Maryland's Child Fatality Review Team. The pilot program teams met for the first time in February 2014.

Additionally, Chapter 299 of 2013 established an Overdose Response Program in DHMH to authorize qualified individuals to administer naloxone to an individual experiencing, or believed to be experiencing, an opioid overdose to help prevent a fatality when medical services are not immediately available.

Exhibit 1
Intoxication Deaths in Maryland
2007-2012



Source: Department of Health and Mental Hygiene, *Drug and Alcohol Intoxication Deaths in Maryland, 2007-2012*

Local Expenditures: The Maryland Association of County Health Officers (MACHO) advises that expenditures for LHDs and team members may increase significantly depending on whether a county establishes a review team and how the county decides to staff the team. The bill leaves some discretion to each county with regard to membership and chairmanship, thus adding uncertainty to any fiscal or operational impact. Although many LHDs already have similar review processes in place, the bill's responsibilities and requirements for teams are more specific and far-reaching than those processes.

MACHO advises that LHDs likely require new staff to work several days a month to adequately review case files, schedule meetings, take minutes, issue findings, monitor follow-up inquiries, and generate and submit reports to DHMH. Additionally, some counties may need to hire an epidemiologist, physician, and/or a physician consultant to collaborate with behavioral health staff to review cases and develop strategies to recommend to the local team. MACHO estimates that each case likely requires five hours of time for each professional involved in the case. In Baltimore City, a similar pilot program reviewed 32 death reports in the first month of the program. Baltimore City allocated 0.7 regular employees to investigate and follow-up on these reports, at a cost of approximately $45,000.

Thus, MACHO advises that the impact on LHDs to fully implement the bill statewide could be up to an additional 13 full-time equivalent employees at a cost of $856,124 beginning in fiscal 2015 and escalating to $1,256,308 by fiscal 2019. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenditures. Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. LHDs likely do not have the capacity to fully absorb the requirements associated with a new review team with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City, Montgomery and Prince George's counties, Office of the Attorney General, Governor's Office for Children, Department of Human Resources, Maryland State Department of Education, Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Juvenile Services, Maryland Association of Counties, Maryland Association of County Health Officers, Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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