

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 607

(Senator Shank, *et al.*)

Judicial Proceedings

Health and Government Operations

Health Occupations - Child Abuse and Neglect - Training

This bill establishes requirements for health occupation boards regarding training on the identification and reporting of child abuse and neglect.

Fiscal Summary

State Effect: State expenditures (primarily special fund expenditures) increase by \$387,600 in FY 2015 for the Department of Health and Mental Hygiene (DHMH) to hire staff to monitor compliance with the training requirements and to address additional disciplinary actions. The bill also includes computer modification costs in FY 2015 only. Future years reflect annualization and inflation. Revenues are not directly affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	311,400	266,300	278,800	292,000	305,800
GF/SF Exp.	76,300	91,000	94,700	99,000	103,500
Net Effect	(\$387,600)	(\$357,200)	(\$373,500)	(\$391,000)	(\$409,300)

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

Local Effect: None.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill requires each health occupation board authorized to issue a license or certificate to adopt regulations that:

- require, before the issuance of a license or certificate and every four years thereafter, each applicant to receive at least 90 minutes of training on the identification and reporting of abuse and neglect;
- require, before the renewal of a license or certificate and every four years thereafter, each licensee or certificate holder to receive at least 90 minutes of training on the identification and reporting of abuse and neglect;
- require, before first treating, healing, counseling, or otherwise interacting with patients or clients and every four years thereafter, each unlicensed medical practitioner or other health care practitioner in training who works directly with patients to receive at least 90 minutes of training on the identification and reporting of abuse and neglect; and
- allow a waiver of the requirements specified above if the health care practitioner does not treat, heal, or otherwise give care to minors or does not supervise, train, or educate other health care practitioners who treat, heal, or otherwise give care to minors.

The required training must include at a minimum (1) the reporting requirements under the Family Law Article; (2) information regarding signs and symptoms of abuse and neglect; (3) appropriate responses to disclosures of abuse and neglect; and (4) resources and referrals for victims.

Each health occupation board must establish a process for professional associations, nonprofit organizations, colleges, universities, and other organizations to obtain certification that specific continuing education courses offered by the organization, including courses that are offered online, by teleconference, in person, or by any other method reasonably designed to educate attendees, satisfy the bill's requirements.

Subject to the individual's right to notice and hearing, if an applicant, a licensee, or a certificate holder violates a regulation adopted pursuant to the bill's requirements, a health occupation board may (1) deny a license or certificate to the applicant; (2) reprimand the licensee or certificate holder; (3) place the licensee or certificate holder on probation; or (4) suspend or revoke the license or certificate. The bill's provisions do not affect any other disciplinary action authorized under a board's statutory or regulatory provisions.

Each health occupation board must annually submit a statistical report to the Secretary of Health and Mental Hygiene indicating the number of individuals who (1) have certified that they received training as required by the bill's provisions; (2) received a waiver; and

(3) failed to comply and the action that was taken as a result. The report must also specify the professions of the individuals. The report must (1) cover the period beginning October 1 and ending the following September 30 and (2) be submitted by the board by November 15 of the following period. The Secretary must compile the information and submit an annual report to the General Assembly by December 31 of each year.

Current Law:

Mandatory Reporters

Pursuant to the Family Law Article, health care practitioners, police officers, educators, and human service workers who are acting in a professional capacity, and who have reason to believe that a child has been subjected to abuse or neglect, must notify the local department of social services or the appropriate law enforcement agency. An “educator or human service worker” includes any teacher, counselor, social worker, caseworker, and parole or probation officer. If the worker is acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, then the individual must notify the head of the institution or the designee.

A worker who notifies the appropriate authorities must make an oral report by telephone or direct communication as soon as possible to the local department or the appropriate law enforcement agency if the worker has reason to believe the child has been subjected to abuse or neglect. A written report to the local department is required not later than 48 hours after the contact, examination, or treatment that caused the worker to believe that the child had been subjected to abuse or neglect. A copy of the written report must be provided to the local State’s Attorney. An agency that receives an oral report of suspected abuse or neglect must immediately notify the other agency.

As far as reasonably possible, a worker who makes a report must include the name, age, and home address of the child; the name and home address of the child’s parent or other person responsible for the child’s care; the whereabouts of the child; and the nature and extent of the child abuse or neglect. The report must include any available evidence about previous instances of abuse or neglect, any information that would help to determine the cause of the suspected abuse or neglect, and the identity of any person responsible for the abuse or neglect.

In general, a person other than a health care practitioner, police officer, educator, or human service worker who has reason to believe that a child has been subjected to abuse or neglect must notify the local department of social services or the appropriate law enforcement agency. Attorneys and clergy are generally exempt from reporting if they become aware of suspected abuse or neglect through privileged communications, as specified in statute. Individuals (other than those who are required to report because of

their professional capacity) who in good faith make or participate in making a report of abuse or neglect or participate in an investigation or resulting judicial proceeding are immune from civil liability or criminal penalties.

Penalties for Failure to Report

State law does not criminalize the failure of a worker to report suspected abuse or neglect. The licensing boards for some workers who are mandated to report child abuse and neglect (nurses, doctors, and social workers are examples) are authorized to discipline workers for failing to report. For example, the State Board of Nursing may reprimand, place on probation, or suspend or revoke the license of an individual who fails to report suspected child abuse and neglect.

Background:

Mandatory Reporters

According to the Child Welfare Information Gateway, every state and the District of Columbia have laws that identify those people who are required to report suspected incidences of child abuse and neglect. As of August 2012 (the latest information available), 48 states and the District of Columbia specify professions for which the mandatory reporting requirements apply. Typically, mandated reporters include school personnel, social workers, health care workers, child care providers, medical examiners or coroners, and law enforcement officers. The other two states, New Jersey and Wyoming, do not specify professional workers who are required to report, but require all persons to report suspected child abuse or neglect. At least 18 states, including Maryland, require all citizens to report suspected abuse or neglect regardless of profession. In Maryland, however, the reporting requirements for a citizen are less stringent than the reporting requirements for covered professionals.

Failure to Report Penalties

According to the Child Welfare Information Gateway, as of August 2012, 47 states and the District of Columbia impose penalties on mandatory reporters who knowingly or willfully fail to report suspected child abuse or neglect. The states that do not impose a penalty, in addition to Maryland, are North Carolina, and Wyoming.

In 38 of the 47 states that impose penalties, the penalty is a misdemeanor. The nine states that do not use the misdemeanor classification for the failure to report penalty are Connecticut, Delaware, Florida, Massachusetts, Mississippi, New Jersey, Vermont, Virginia, and Wisconsin. In Arizona and Minnesota, misdemeanors are upgraded to felonies for failure to report more serious situations, while in Illinois, second or subsequent violations are classified as felonies.

A mandated reporter who fails to report can face jail terms ranging from 30 days to five years and/or fines ranging from \$300 to \$10,000. In California and Massachusetts, harsher penalties are imposed when the failure to report results in the child’s death or serious bodily injury. Louisiana imposes harsher penalties when the reporter fails to report sexual abuse or serious bodily injury. Delaware and Virginia impose harsher penalties upon second or subsequent convictions for failure to report.

State Fiscal Effect: Special and general fund expenditures increase by \$387,604 in fiscal 2015, which reflects the bill’s October 1, 2014 effective date. This estimate reflects the cost of hiring two administrators and one attorney within the Board of Nursing to monitor compliance with the training requirements and to handle any additional complaints of failure to report. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate also includes computer reprogramming costs in fiscal 2015 only. Because the board regulates such a large number of individuals (over 330,000), additional staff is required to ensure compliance with the bill’s provisions. The estimate also reflects the cost of an additional specialist within the Health Occupations Boards’ program support unit to monitor compliance of licensees from other boards as well as one administrator within the Board of Physicians to monitor the compliance of its licensees.

Positions	5
Salaries and Fringe Benefits	\$256,157
Computer Reprogramming Costs	100,000
Operating Expenses	<u>31,447</u>
FY 2015 State Expenditures	\$387,604

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Although not directly affected, the Department of Legislative Services notes that to the extent that the boards increase licensing fees to cover expenditures related to the bill’s requirements, special fund revenues increase accordingly.

Small Business Effect: A small business may be impacted if employees who are required to take the new training are unable to obtain or renew licenses in a timely

manner. DHMH advises that because there is currently no approved program for the required training, it may be difficult to find enough courses to accommodate a large number of licensees without potential delays in issuing licenses and renewals.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Department of State Police, Harford and Talbot counties, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2014
ncs/kdm Revised - Senate Third Reader/Updated Information - March 24, 2014

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510