

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1111 (Delegate Morales, *et al.*)  
Health and Government Operations and  
Appropriations

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Public Health - Access to Emergency Contraception - Student Health Centers  
and Vending Machines

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This bill requires a student health center at a public institution of higher education to provide, during regular operating hours, on-site access to prescription and over-the-counter (OTC) emergency contraception as well as contraceptive counseling or referrals for such counseling to other qualified health care providers. Additionally, a public institution of higher education must ensure the availability of (1) OTC emergency contraception at *all times*, including through vending machines or other similar devices and (2) specified information about the availability of, and information relating to, emergency contraception. **The bill takes effect July 1, 2018.**

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Fiscal Summary

**State Effect:** Higher education expenditures may increase minimally. However, as discussed below, any costs are assumed to be absorbable within institutional budgets. Revenues are not directly affected.

**Local Effect:** Local community college expenditures may increase, as discussed below. Revenues are not directly affected.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** “Emergency contraception” is defined as a drug regimen approved by the U.S. Food and Drug Administration (FDA) that is used after sexual intercourse to prevent

pregnancy. “Over-the-counter” is defined as a drug approved by FDA for over-the-counter use.

The bill establishes that current restrictions under the Health-General Article related to the sale of drugs or medicine through vending machines does not apply to any emergency contraception approved for OTC use by FDA.

The required information that a public institution of higher education must ensure is available must be in a consumer-friendly format based on the recommendations of the American Society for Emergency Contraception.

**Current Law/Background:** Emergency contraception is a type of birth control that reduces a woman’s chances of becoming pregnant *after* unprotected sex or birth control failure. Emergency contraception prevents pregnancy by stopping ovulation; it does not stop a pregnancy when a woman is already pregnant. Also, emergency contraception does not protect against sexually transmitted infections, like HIV (only condoms do). In the United States, two types of emergency contraceptive pills are available – one OTC and the other by prescription.

In 2013, FDA approved Plan B One-Step, a 1.5 milligram levonorgestrel pill, which may be sold OTC to either women or men without age restriction. Since then, several generic brands of the same medicine (including Take Action, My Way, and Next Choice One-Dose) have been also been approved to be sold OTC without restriction. Emergency contraception should be taken as soon as possible after unprotected intercourse to be effective. This type of emergency contraceptive pill must be taken within 72 hours of unprotected intercourse.

Plan B One-Step usually costs about \$40 to \$50; the generic brands generally cost about \$35 to \$45. Another generic brand called AfterPill can be purchased online for \$20 plus \$5 shipping, although it does not ship quickly enough to be used if purchased after unprotected intercourse.

Another type of emergency contraception is known as Ella, which contains 30 milligrams of ulipristal acetate and is available only by prescription. This type of emergency contraceptive pill must be taken within 120 hours of unprotected intercourse. Ella costs about \$50 at a pharmacy or drugstore; it can also be obtained online for \$59, which includes the medical consultation, prescription, and shipping.

FDA has also approved combinations of regular oral contraceptives as safe and effective for use as emergency contraception; this type of emergency contraception requires a second dose 12 hours later.

According to its [website](#), the American Society for Emergency Contraception collaborates with the [International Consortium for Emergency Contraception](#) to produce evidence-based fact sheets on emergency contraception.

Public institutions of higher education in Maryland are not currently required to provide access to prescription or OTC emergency contraception.

Generally, a person is prohibited from selling, distributing, or otherwise disposing of any drug, medicine, pharmaceutical preparation, or medical preparation from a vending machine, or other similar device.

**State and Local Expenditures:** For University System of Maryland (USM) institutions, Morgan State University (MSU), St. Mary's College of Maryland (SMCM), and Baltimore City Community College (BCCC), it is assumed that any costs associated with the bill are absorbable. Due to their smaller annual budgets, costs for local community colleges to provide access to OTC emergency contraception may not be absorbable. However, as explained below, costs per campus are anticipated to be minimal and the other provisions of the bill can be met using existing resources. The following information and assumptions were used in this estimate.

- Health centers can provide on-site access to prescription and OTC emergency contraception during their normal operating hours using their normal procedures for providing on-site access to prescription and OTC drugs, with no material effect on revenues and expenditures. Likewise, health centers can provide contraceptive counseling or referrals for contraceptive counseling to other qualified health care providers using existing procedures. These services are likely currently being provided at most, if not all, public institutions of higher education.
- The bill requires a public institution of higher education to ensure the availability of OTC emergency contraception at all times, including when the health center is closed. Thus, OTC emergency contraception must be available elsewhere when the health center is closed.
- Institutions are required to ensure availability of OTC emergency contraception *on campus*, rather than periodically ensuring that it is provided off campus. To the extent that the bill is interpreted to only require institutions to ensure off-campus availability, costs are minimal.
- OTC emergency contraception can be provided by a cost-effective method during hours when the health center is closed. For example, OTC emergency contraception could be provided in a vending machine. For less than \$3,800 each, an institution

could procure commercially available full-featured vending machines designed to dispense items costing up to \$99. Additionally, OTC emergency contraception could be added to existing on-campus vending machines. Alternatively, an institution could decide to provide access to OTC emergency contraception at a 24-hour campus store or by a staff position that is constantly on campus.

- The costs associated with institutions obtaining and providing access to OTC emergency contraception can be at least partially recouped through the sale of the OTC emergency contraception. As stated above, the retail price for AfterPill is \$20, plus \$5 shipping.
- Each public institution of higher education can ensure the availability of the following using existing resources: (1) information relating to the availability of emergency contraception on campus and off campus on its website and through other means of communication with students; and (2) information relating to emergency contraception in a consumer-friendly format based on the recommendation of the American Society for Emergency Contraception.
- OTC emergency contraception must only be made available when students are permitted to be on campus. Some campuses close to students during holidays. Further, local community colleges, which are generally not residential, are often closed to students during the hours of the day when classes are not in session. To the extent institutions are required to provide access on campus during periods when the campus is generally closed to students, costs may increase significantly.
- Accordingly, for USM institutions, MSU, SMCM, and BCCC, any costs associated with the bill are absorbable. Due to their smaller annual budgets, costs for local community colleges to provide access to OTC emergency contraception may not be absorbable; however, the cost per campus is anticipated to be minimal.
- The Department of Legislative Services advises that the bill does not require a public institution of higher education to provide *free* access to either prescription or OTC emergency contraception.

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### **Additional Information**

**Prior Introductions:** HB 1205 of 2017, a similar bill, received a hearing in the House Health and Government Operations Committee, but no further action was taken on the bill.

**Cross File:** SB 969 (Senator Manno, *et al.*) - Education, Health, and Environmental Affairs and Finance.

**Information Source(s):** Baltimore City Community College; Maryland Higher Education Commission; Maryland Department of Health; Morgan State University; St. Mary's College of Maryland; University System of Maryland; American Society for Emergency Contraception; International Consortium for Emergency Contraception; Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2018

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