

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1289
Judiciary

(Delegate Lam, *et al.*)

Correctional Services - Arrested Persons - Mental Disorder Screenings

This bill requires the Department of Public Safety and Correctional Services (DPSCS) and the Maryland Department of Health (MDH) to jointly establish a uniform mental disorder screening procedure for the screening of arrested persons. The bill establishes (1) requirements for the designation of a scientifically validated test or tests to be used for the mental disorder screening and (2) time periods within which an arrested person must be screened and a qualified mental health professional must conduct a specified assessment of the arrested person. The bill also requires DPSCS to review its correctional facility staffing standards with respect to mental disorder treatments and submit a related report.

Fiscal Summary

State Effect: General fund expenditures likely increase minimally for DPSCS to conduct the required screenings and assessments, as discussed below. It is assumed that DPSCS and MDH can identify the required test with existing resources. Revenues are not affected.

Local Effect: None, as discussed below under Additional Comments.

Small Business Effect: None.

Analysis

Bill Summary: In order for a mental disorder screening test to be designated under the bill's provisions, an employee of a correctional facility, other than a health care provider, must be capable of administering the test, provided that the employee is trained in the administration of the test.

Each arrested person detained or confined in a correctional facility must be screened for a mental disorder as soon as possible after the arrested person is admitted to the correctional facility. However, an arrested person is not required to be screened for a mental disorder if the arrested person is transferred from a correctional facility in the State to a different correctional facility in the State and the transferring correctional facility performed a mental disorder screening.

Within 72 hours after an arrested person is screened for a mental disorder, a qualified mental health professional must conduct an assessment of the arrested person's need for mental health services if (1) the mental disorder screening indicated that the arrested person may have a mental disorder and (2) the arrested person continues to be detained or confined in a correctional facility in the State.

DPSCS must review its correctional facility staffing standards with respect to mental disorder treatments in correctional facilities, including (1) an evaluation of the costs of benefits of the bill's requirement that a qualified mental health professional conduct an assessment of the arrested person's need for mental health services and (2) the need for mental disorder services in all cases in which the screening indicates the arrested person may have a mental disorder. By July 1, 2019, DPSCS must report to the Governor and the General Assembly on the bill's implementation and any recommendations for updating the correctional facility staffing standards and associated costs.

Current Law: Promptly after an inmate is sentenced to the jurisdiction of the Division of Correction (DOC), DOC must assemble an adequate case record for the inmate that includes (1) a description, photograph, and family history of the inmate; (2) any previous record of the inmate; (3) a summary of the facts of each case for which the inmate is serving a sentence; (4) the results of a specified risk and needs assessment of the inmate; and (5) the results of a specified physical, mental, and educational examination of the inmate.

DOC must conduct a risk and needs assessment and a physical, mental, and educational examination of an inmate as soon as feasible after the individual is sentenced to the jurisdiction of DOC. Based on the information assembled for an inmate's case record, DOC must classify an inmate and develop a case plan to guide an inmate's rehabilitation while under the custody of DOC. The case plan developed must include:

- programming and treatment recommendations based on the results of the risk and needs assessment conducted;
- required conduct in accordance with the rules and policies of DOC; and
- a plan for the payment of restitution, not to supersede any payment plan established by the court, if restitution has been ordered.

The managing official of each correctional facility must maintain, as a part of an inmate's case record (1) an adequate record of the conduct, effort, and progress of the inmate during confinement and (2) a record of the character of any offense committed by the inmate and the nature and amount of punishment inflicted.

State Expenditures: Although the bill is drafted to provisions of law that relate only to DOC and not to the Division of Pretrial Detention and Services within DPSCS, for purposes of this fiscal and policy note, it is assumed that the bill applies to arrested persons under the jurisdiction of DPSCS. Accordingly, general fund expenditures likely increase minimally for DPSCS to administer the scientifically validated test required under the bill for arrested persons detained or confined in Baltimore City and conduct any necessary assessments.

Each arrested person detained or confined in a State-operated correctional facility undergoes an initial medical and mental health screening within four hours of the offender entering the facility. However, DPSCS does not currently use a scientifically validated test in its examination of an offender. In order to identify a scientifically validated test required under the bill, MDH and DPSCS will need to conduct research involving all of the currently recognized screening tools used under similar settings. If such a test cannot be identified, one will have to be designed; however, the efficacy of such an instrument will not be known for some time as testing is required for validation.

Although the bill authorizes an employee of a correctional facility, other than a health care provider, to administer the test, DPSCS advises that the use of a mental health disorder screening instrument by staff not clinically trained does not meet current standards for care. As a result, if DPSCS must administer the required screenings and assessments with clinically trained staff, additional staff are needed. *For illustrative purposes*, the cost to hire one mental health professional counselor is approximately \$80,000 annually.

Additional Comments: Because the bill's provisions are drafted to Title 3 of the Correctional Services Article, which only relates to DPSCS, it is assumed that the bill does not apply to local correctional facilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Baltimore, Montgomery, and Prince George's counties; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2018
mag/lgc

Analysis by: Shirleen M. E. Pilgrim

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