

Department of Legislative Services
 Maryland General Assembly
 2019 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 693
 Judiciary

(Delegate Barron, *et al.*)

Public Safety - Correctional Facilities - Mental Disorder Screening

The 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 screening inmates. With specified exceptions, each inmate detained or confined in a correctional facility must be screened for a mental disorder as soon as possible after the inmate is admitted to the correctional facility. The bill establishes (1) provisions regarding the screenings; (2) provisions related to the reporting and analysis of the screening results; and (3) related reporting requirements.

Fiscal Summary

State Effect: General fund expenditures increase by \$812,000 in FY 2020. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	812,000	939,600	970,900	1,004,200	1,038,600
Net Effect	(\$812,000)	(\$939,600)	(\$970,900)	(\$1,004,200)	(\$1,038,600)

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

Local Effect: Potential minimal increase in local expenditures, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The Behavioral Health Administration (BHA), in consultation with the Governor's Office of Crime Control and Prevention (GOCCP) and DPSCS, must develop a standardized format that each correctional facility must use to report the results of the required screening to BHA. A correctional facility must, as soon as practicable, transmit the results of the screenings to BHA.

BHA, in consultation with GOCCP and DPSCS, must analyze and summarize the results and, by September 1, 2020, and annually thereafter, report the analyses and summaries to the Governor and the General Assembly. The bill also alters specified information that must be collected and reported to the Justice Reinvestment Oversight Board on a semiannual basis to include data relating to the required mental disorder screenings for inmates.

The mental disorder screening procedure must designate the scientifically validated test or tests to be used for the mental disorder screening. In order for a mental disorder screening test to be designated, 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. The screening test must be capable of indicating whether an inmate requires a mental health assessment or treatment for a mental disorder.

An inmate is not required to be screened for a mental disorder if the inmate 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.

Current Law: Promptly after an inmate is sentenced to the jurisdiction of the Division of Correction (DOC) within DPSCS, 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.

“Mental disorder” includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another. “Mental disorder” does not include an intellectual disability.

Justice Reinvestment Oversight Board Report: Semiannually, each county, DPSCS, the Maryland Parole Commission, the Administrative Office of the Courts, and the Maryland State Commission on Criminal Sentencing Policy must collect and report data to the Justice Reinvestment Oversight Board that is disaggregated by race and ethnicity in order for the board to perform its duties, including data relating to:

- the admission of inmates to State and local correctional facilities;
- the length of inmate sentences;
- the length of time being served by inmates, including suspended periods of a criminal sentence;
- recidivism;
- the population of community supervision;
- information about the inmate population, including the amount of restitution ordered and the amount paid; and
- departures by the court and the commission from the sentencing limits for specified technical violations.

State Expenditures: General fund expenditures for DPSCS increase by \$812,005 in fiscal 2020, which accounts for the bill's October 1, 2019 effective date. Future year expenditures are annualized and reflect ongoing costs. It is assumed other affected State agencies can implement the bill with existing resources, as discussed below.

Department of Public Safety and Correctional Services

DPSCS reports that in fiscal 2018, the department received 5,845 sentenced inmate intakes and 2,175 returns, while the Baltimore City Pretrial Complex had 12,504 pretrial detainee intakes. Currently, DPSCS screens each inmate at intake utilizing the Initial Medical and Mental Health Screening (IMMS) tool that was designed to assess medical, mental health, and substance use disorder. Part of the screening is conducted by psychology associates that have been granted an exception to practice under the supervision of a psychologist licensed by the State. The IMMS assessment is designed to cover both medical and mental health screening and was reviewed and approved by the accrediting agencies of the department – the American Correctional Association and the National Commission on Correctional Health Care. In addition, the screening tool and process is covered under the *Duvall v. Hogan* settlement agreement. To alter the tool used for mental health screening could impact the agreement and result in the department being in noncompliance with the agreement. Therefore, for DPSCS to conduct an *independent* mental health screening that uses only individuals who meet the requirements of the bill (instead of utilizing certain mental health professionals capable of administering a mental disorder screening by virtue of their respective board approvals), general fund expenditures for DPSCS increase by \$812,005 in fiscal 2020. This estimate reflects the cost of hiring six mental health graduate counselors and six mental health professional counselors to perform the required mental health screenings. It includes salaries, fringe benefits, one-time start-up costs (including computer programming costs), and ongoing operating expenses.

Positions	12
Salaries and Fringe Benefits	\$699,300
Computer Programming Costs	48,400
Other Operating Expenses	<u>64,305</u>
Total FY 2020 State Expenditures	\$812,005

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

Maryland Department of Health

MDH did not provide an estimate of any costs that might be incurred (1) to work with DPSCS to establish the required uniform mental disorder screening procedure; (2) for BHA to work with DPSCS and GOCCP to develop a standardized format that each correctional facility must use to report the results of the required screening; and (3) for BHA, in consultation with GOCCP, to submit a report of the analyses and summaries of the screening results. However, MDH advises that the bill requires staff time. Thus, this analysis assumes that MDH and BHA can handle the bill's requirements with existing budgeted resources.

Governor's Office of Crime Control and Prevention

GOCCP also did not provide an estimate of any costs that might be incurred (1) to work with BHA and DPSCS to develop a standardized format that each correctional facility must use to report the results of the required screening and (2) to work with BHA to submit a report of the analyses and summaries of the screening results; however, with staff from three agencies working on the format, this analysis assumes that GOCCP can handle the requirements with existing resources.

Local Expenditures: DPSCS reports that in fiscal 2018, counties across the State had 71,651 pretrial detainee intakes and 2,687 sentenced inmate intakes. The bill may result in a minimal increase in local expenditures to screen inmates in local correctional facilities for mental disorders to the extent they do not already do so.

Howard County advises that the county currently screens inmates for mental health disorders; thus, the county reports that the bill's requirements have minimal or no impact. Garrett and Montgomery counties both state that the bill has no impact on county finances.

Additional Comments: On June 28, 2016, U.S. District Judge Ellen L. Hollander approved the settlement agreement in *Duvall v. Hogan*, a class action suit on behalf of detainees in the Baltimore City Detention Center regarding aging prison infrastructure and other deficiencies that affect health, safety, and security in Baltimore City jails. The agreement stipulates an overhaul of the jail's health care system and major improvements to the facilities, including accommodations for people with disabilities. To ensure compliance with the settlement, the jail's progress is assessed by independent monitors.

Additional Information

Prior Introductions: None.

Cross File: SB 746 (Senator Lam) - Judicial Proceedings and Finance.

Information Source(s): Garrett, Howard, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Public Safety and Correctional Services; Department of Legislative Services

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