

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1162 (Delegate Wivell, *et al.*)
 Health and Government Operations

Health - Abortions - Reporting Requirements

This bill requires a physician that performs an abortion, or a hospital, facility, or other institution in which an abortion is performed, to report the abortion to the Maryland Department of Health (MDH). A physician who fails to comply with the reporting requirement is guilty of unprofessional conduct and must be subject to disciplinary action by the State Board of Physicians (MBP). A physician, or an individual acting on behalf of a hospital, facility, or other institution, who fails to submit the required report is subject to a fine up to \$500 for each violation. MDH must adopt regulations to implement the bill.

Fiscal Summary

State Effect: General fund expenditures increase by \$501,600 in FY 2021 for staff and one-time information technology costs. Future years reflect elimination of one-time costs, annualization, and ongoing costs. General fund revenues increase beginning in FY 2021 to the extent administrative fines are imposed.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
GF Revenue	-	-	-	-	-
GF Expenditure	\$501,600	\$95,200	\$96,500	\$98,700	\$100,900
Net Effect	(\$501,600)	(\$95,200)	(\$96,500)	(\$98,700)	(\$100,900)

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

Local Effect: This bill is not expected to materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The required report must be completed by the physician performing the abortion or by the hospital, facility, or institution where the abortion was performed. The report must be transmitted to the Vital Statistics Administration on an approved form developed by MDH within 15 days after the end of each reporting year. The report must include:

- the patient's county and state of residence;
- the patient's age, race, and marital status;
- the estimated gestational age of the fetus at the time of the abortion;
- the month during which the abortion was performed; and
- the method of abortion used.

The report may include the primary reason provided by the patient for the abortion. The report may not include specified information, including a patient's name or street address or any identifiers that could be used to identify a patient or the physician.

Current Law: The State may not interfere with a woman's decision to end a pregnancy before the fetus is viable, or at any time during a woman's pregnancy, if the procedure is necessary to protect the life or health of the woman, or if the fetus is affected by a genetic defect or serious deformity or abnormality. This is consistent with the U.S. Supreme Court's holding in *Roe v. Wade*, 410 U.S. 113 (1973). A viable fetus is one that has a reasonable likelihood of surviving outside of the womb. MDH may adopt regulations consistent with established medical practice if they are necessary and the least intrusive method to protect the life and health of the woman.

If an abortion is provided, it must be performed by a licensed physician. A physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion made in good faith and in the physician's best medical judgment using accepted standards of medical practice.

MBP is charged with enforcing the Maryland Medical Practice Act and the Maryland Physician Assistants Act. Among its duties, MBP must (1) adopt regulations to carry out the provisions of law for which it is responsible; (2) establish policies for board operations; (3) oversee licensing of physicians and allied health professionals; (4) review and investigate complaints; (5) report on all disciplinary actions, license denials, and license surrenders; (6) appoint members of the disciplinary panels; and (7) develop and approve an annual report. The board consists of 22 members; membership is drawn in accordance with statute.

Background: The U.S. Centers for Disease Control and Prevention (CDC) has partnered with states for the past four decades to collect aggregate statistics on abortions in the United States. States are not required to submit abortion data to CDC, but 47 states (excluding Maryland, California, and New Hampshire), as well as the District of Columbia and New York City, submit this data. The Guttmacher Institute reports that a total of 46 states require hospitals, facilities, and physicians providing abortions to submit regular and confidential reports to the state (New Jersey reports to CDC but does not have a state reporting requirement).

To collect individual level data, most state vital statistics agencies have designed a form that abortion providers use for reporting to the state. The form generally includes identification of the facility and physician performing the abortion procedure, patient's demographic characteristics (age, race, ethnicity, marital status, and number of previous live births), gestational age of the fetus, and the method of abortion procedure used.

State Revenues: General fund revenues increase to the extent that the \$500 administrative fine is imposed for each violation of failing to submit the required report to MDH.

State Expenditures: MDH advises that it must hire two full-time permanent employees to implement the bill: one full-time epidemiologist to collect and analyze required data and prepare the required reports; and one full-time administrative officer to develop instructional materials for data collection, distribute the instructional materials, review completed records, and follow up on incomplete or inaccurate records. The Department of Legislative Services concurs that permanent staff are needed to review the submitted records but advises that the bill does not mandate any data analysis or reports. Thus, this estimate reflects the minimum additional staff necessary to implement the bill.

Accordingly, general fund expenditures increase by \$501,575 in fiscal 2021, which accounts for the bill's October 1, 2020 effective date. This estimate reflects \$450,000 in one-time costs associated with the development and implementation of an electronic data system, as well as the cost of hiring one full-time administrative officer to develop instructional materials for data collection, distribute the instructional materials, review completed records, and follow up on incomplete or inaccurate records. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
One-time Costs for Electronic Data System	\$450,000
Salary and Fringe Benefits	46,209
Operating Expenses	<u>5,366</u>
Total FY 2021 State Expenditures	\$501,575

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses (including contractual services associated with maintaining the electronic data system).

MBP can handle the bill's disciplinary requirement with existing resources.

Additional Information

Prior Introductions: HB 630 of 2019 received a hearing in the House Health and Government Operations Committee, but no further action was taken. Its cross file, SB 420, received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Health; U.S. Centers for Disease Control and Prevention; Charlotte Lozier Institute; Guttmacher Institute; Department of Legislative Services

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