

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 975
 Finance

(Senator Elfreth, *et al.*)

Appropriations

Maryland Department of Health - Reproductive Health Care Clinic Security Grant Program - Establishment (Supporting Reproductive Health Care Clinics Act)

This bill establishes the Reproductive Health Care Clinic Security Grant Program in the Maryland Department of Health (MDH). The program, administered by the Secretary of Health, is intended to assist “reproductive health care clinics” in the State with the costs associated with specified security improvements. The Secretary must establish grant application and award processes and the criteria a clinic must meet to qualify for a grant. MDH is prohibited from releasing, publishing, or otherwise disclosing specified information regarding grant recipients and awards. For fiscal 2026, the Governor may include an appropriation in the annual budget bill of \$500,000 to the program; up to 5% of the money appropriated to the program may be used for administrative expenses.

Fiscal Summary

State Effect: General fund expenditures increase by \$28,700 in FY 2025 for staffing and by \$500,000 in FY 2026, which reflects discretionary funding for the grant program (including administrative costs) for one fiscal year only. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	28,700	500,000	0	0	0
Net Effect	(\$28,700)	(\$500,000)	\$0	\$0	\$0

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

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “reproductive health care clinic” is a health care provider that provides legally protected health care, as defined in the Health-General Article.

MDH may not release, publish, or otherwise disclose (1) the personal information of an individual applying for, participating in, or administered a grant under the program or (2) information regarding a grant awarded under the program if the disclosure would compromise the safety of the grant recipient.

Current Law:

Status of Federal Abortion Law

In June 2022, the U.S. Supreme Court overturned precedent regarding abortion access in *Dobbs v. Jackson Women’s Health Organization*. Before this decision, abortions prior to viability were constitutionally protected based on *Roe v. Wade* and *Planned Parenthood of Southeastern Pennsylvania v. Casey*. The petitioners in *Dobbs* sought to overturn the invalidation of Mississippi’s Gestational Age Act, which prohibited abortions after 15 weeks gestation except for medical emergencies or severe fetal abnormalities. The U.S. Supreme Court upheld the Mississippi law by overturning *Roe* and *Casey*, holding that there is no constitutionally protected right to an abortion as it is not a right explicitly granted by the Constitution or a right “deeply rooted” in the country’s history and tradition. The *Dobbs* decision leaves states to decide how to regulate abortion access, resulting in a patchwork of state laws with varying degrees of access to abortion care.

Maryland Abortion Law

The *Dobbs* decision does not impact Maryland law as § 20-209 of the Health-General Article codifies the protections of *Roe* and *Casey* by prohibiting the State from interfering with an abortion conducted (1) before viability or (2) at any point, if the procedure is necessary to protect the health or life of the woman and in cases of fetal defect, deformity, or abnormality.

If an abortion is provided, it must be performed by a qualified provider, which includes an individual who is licensed, certified, or otherwise authorized by law to practice in the State and for whom the performance of an abortion is within the scope of the individual’s license or certification.

A qualified provider 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 qualified provider’s best clinical judgment using accepted standards of clinical practice.

MDH may adopt regulations consistent with established clinical practice if they are necessary and the least intrusive method to protect the life and health of the woman.

Chapter 56 of 2022, in addition to other changes, established the Abortion Care Clinical Training Program to ensure there are a sufficient number of health care professionals to provide abortion services in the State, and requires health insurers and Maryland Medicaid to cover abortion services without a deductible, coinsurance, copayment, or other cost-sharing requirement.

Reproductive Health Protection Act and Protected Health Care Information

Chapters 246 and 247 of 2023 establish additional protections for information related to “legally protected health care” when that information is sought by another state. The Acts also prohibit (1) a health occupations board from taking specified disciplinary actions related to the provision of legally protected health care; (2) a medical professional liability insurer from taking specified adverse actions against a practitioner related to the practice of legally protected health care; and (3) specified State entities, agents, and employees from participating in any interstate investigation seeking to impose specified liabilities or sanctions against a person for activity related to legally protected health care (with limited exception).

Under § 2-312 of the State Personnel and Pensions Article, “legally protected health care” means all reproductive health services, medications, and supplies related to the direct provision or support of the provision of care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in the State.

Chapters 248 and 249 of 2023 generally prohibit the disclosure of mifepristone data or the diagnosis, procedure, medication, or related codes for abortion care and other “sensitive health services” by a health information exchange, electronic health network, or health care provider effective December 1, 2023. Beginning June 1, 2024, a person who knowingly violates this prohibition is guilty of a misdemeanor and subject to a fine of up to \$10,000 per day. The Acts also established a Protected Health Care Commission (PHCC), staffed by MDH, to make specified recommendations to the Secretary of Health on what should be classified as “legally protected health care.”

Under the Health-General Article, “legally protected health care” means all reproductive health services, medications, and supplies related to the provision of abortion care and other sensitive health services as determined by the Secretary based on the recommendations of PHCC. “Sensitive health services” includes reproductive health services other than abortion care.

State Expenditures: Under the bill, the Governor is authorized to include in the annual budget bill for fiscal 2026 an appropriation of \$500,000 for the grant program. Although the bill does not include a termination date for the grant program, this analysis assumes that it is a one-year grant program based on the bill’s funding language. Thus, discretionary funding of \$500,000 is assumed to be provided in fiscal 2026 only. The bill also authorizes MDH to use up to 5% (\$25,000) of the appropriated funds for the administrative costs of the grant program.

MDH advises that additional staff is required to administer the grant program. Thus, MDH general fund expenditures increase by \$28,732 in fiscal 2025, which accounts for the bill’s October 1, 2024 effective date. Although discretionary funding is not assumed until fiscal 2026, MDH advises that staffing is necessary in fiscal 2025 to develop policies and procedures for the grant program and to initiate the grantmaking process prior to grant funding being available. Because this analysis assumes discretionary funding for grants for one fiscal year only, the added responsibilities for MDH are not permanent and, thus, may be performed by a part-time contractual employee. Therefore, this estimate reflects the cost of hiring one part-time (50%) contractual agency grants specialist for the first six months to complete the initial development of the grant program; after this initial development period, the position continues at a reduced part-time (25%) capacity through fiscal 2026 to manage all aspects of awarding grants. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$21,948
Operating Expenses	<u>6,784</u>
Total FY 2025 State Expenditures	\$28,732

General fund expenditures increase by \$500,000 in fiscal 2026, which represents administrative expenditures of \$16,915 for the grants specialist (within the 5% limit authorized for administrative expenditures) and \$483,085 in grant expenditures. The administrative expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses. This estimate assumes termination of the contractual position on June 30, 2026.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Small Business Effect: A small business reproductive health care clinic benefits to the extent that it applies for and receives a grant under the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1091 (Delegate Vogel, *et al.*) - Appropriations.

Information Source(s): Governor's Office of Crime Prevention and Policy; Department of Budget and Management; Maryland Department of Health; Department of Legislative Services

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