

Department of Fiscal Services
Maryland General Assembly

FISCAL NOTE
Revised

Senate Bill 325 (Senator Hollinger, *et al.*)

(Chairman, Health Subcommittee)

Economic and Environmental Affairs

Referred to Environmental Matters

Medical Records - Maintenance, Disclosure, and Confidentiality

This amended bill expands the definition of medical records to include information transmitted in any form; and documentation of an examination of a patient. The bill also provides that a health care provider may not refuse to disclose a medical record to the person requesting the information because the person has not reimbursed the provider for health care services rendered. The provider must disclose a medical record within 21 working days of the date of the request. The bill alters the penalty provisions for violating the confidentiality of medical records and refusing to disclose certain medical records.

Fiscal Summary

State Effect: Potential indeterminate increase in general fund revenues and increase in expenditures due to the bill's penalty provision.

Local Effect: Potential indeterminate increase in revenues and expenditures due to the bill's penalty provision.

Small Business Effect: Potential minimal effect on small businesses as discussed below.

Fiscal Analysis

Bill Summary: The bill specifies that an individual who knowingly and willfully violates the confidentiality of a medical record is guilty of a misdemeanor and subject to a maximum fine of \$50,000 and/or maximum imprisonment of one year. If the violation is committed under false pretenses, the penalty is a maximum fine of \$100,000 and/or maximum imprisonment of five years. If the violation is committed with intent to sell, transfer, or use individually identified health information for commercial advantage, personal gain, or malicious harm,

the penalty is a maximum fine of \$250,000 and/or maximum imprisonment of ten years. The current law penalty for refusing to disclose a medical record is a maximum fine of \$1,000 for the first offense and a maximum fine of \$5,000 for each subsequent conviction. Health care providers are also liable for damages if they violate the provision relating to the transfer or destruction of medical records.

State Revenues: In 1996 there were no charges filed in District Court for the code violations specified in the bill. The number of charges filed in earlier years cannot be determined at this time. As a result of this bill, the number of jury trials could increase and fewer cases may be heard in District Court. However, since the monetary penalty under this bill is significantly larger than current law, general fund revenues could still increase even if more trials are moved to circuit courts.

State Expenditures: General fund expenditures could increase as a result of the bill's incarceration penalty due to individuals being committed to a Division of Correction (DOC) facility for a longer period of time and increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed.

Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1998 the average monthly cost per inmate is estimated at \$1,500.

Persons serving a sentence of one year or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1998 are estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Persons sentenced in Baltimore City are incarcerated in the Baltimore City Detention Center (BCDC), a State operated facility. The per diem cost for fiscal 1998 is estimated at \$43 per inmate.

Local Revenues: Revenues could increase under the bill's monetary penalty provision for those cases heard in the circuit courts, depending upon the increased number of convictions and fines imposed.

Local Expenditures: Expenditures could increase as a result of the bill's incarceration penalty depending upon the increased number of convictions and sentences imposed. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$83 per inmate in fiscal 1998.

Small Business Effect: Increasing the penalty provisions will increase the cost to the small business health care provider convicted of the violation. In some cases, the cost could be significant. However, it is assumed that the number of convictions relative to the number of

individuals licensed to practice their health occupation is small for all the health occupations. Therefore, the impact on small businesses is minimal.

Information Source(s): Judiciary (District Court); Department of Health and Mental Hygiene (Medical Care Policy Administration, Board of Physician Quality Assurance, Health Care Access and Cost Commission, Community and Public Health Administration, Boards and Commissions); Department of Fiscal Services

Fiscal Note History: First Reader - February 17, 1997
nrd Revised - Senate Third Reader - March 17, 1997

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