

Department of Legislative Services
Maryland General Assembly
1999 Session

FISCAL NOTE

Senate Bill 588 (Senator Hollinger)

Judicial Proceedings

Mental Health Care Providers - Patient's Violent Behavior - Duty to Predict, Warn, or Take Precautions

This bill expands the definition of "mental health care provider" to include any facility, corporation, partnership, association, or other entity that provides treatment or services to individuals who have mental disorders, for the purpose of extending to these entities: (1) the duty to predict, warn of, or take precautions to prevent a patient's violent behavior if the mental health care provider knew of the patient's propensity for violence and the patient's intention to inflict imminent physical injury upon a specified victim; and (2) immunity from suit or disciplinary action for failure to predict, warn of, or take precautions to provide protection from a patient's violent behavior if the mental health care provider did not know of the patient's propensity for violence or the patient's intention to inflict imminent physical injury upon a specified victim.

Fiscal Summary

State Effect: Potential decrease in State Insurance Trust Fund expenditures associated with damage awards. No effect on revenues.

Local Effect: None.

Small Business Effect: Potential minimal. A mental health care provider that is a facility, corporation, partnership, or association would have the duty to warn of a patient's violent behavior if the patient's propensity was known to the mental health care provider. Conversely, the mental health care provider would be immune from suit if it did not know of the patient's propensity for violence.

Fiscal Analysis

State Effect: Under the Tort Claims Act, Title 12, State Government Article, State agencies and employees are amenable to suit with a damage award limitation of \$100,000 per claim. Damage awards are paid out of the State Insurance Trust Fund, administered by the State Treasurer. Department of Health and Mental Hygiene (DHMH) mental health facilities may be sued for negligence stemming from the facility's failure to warn of a patient's propensity for violence and intention to inflict physical injury on another. The bill requires that a facility have actual knowledge of the patient's violent intentions, or the facility is immune from suit. The bill limits the circumstances in which the facility may be sued, since a plaintiff would have to prove actual knowledge. The number of potential law suits that may be avoided is unknown at this time. To the extent that potential lawsuits are avoided, State Insurance Trust Fund expenditures associated with damage awards could decrease, as could litigation costs for DHMH.

Information Source(s): Department of Health and Mental Hygiene (Mental Hygiene Administration), Judiciary (Administrative Office of the Courts), Office of the Treasurer, Department of Legislative Services

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