

Department of Legislative Services  
Maryland General Assembly  
2000 Session

FISCAL NOTE

House Bill 1197 (Delegate Dembrow)

Environmental Matters

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State Board of Examiners of Psychologists - Hearings

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This bill changes the standard of proof required in a disciplinary hearing under the Board of Examiners of Psychologists from a preponderance of the evidence to clear and convincing evidence.

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Fiscal Summary

**State Effect:** Potential minimal special fund expenditure increase for the Board of Examiners of Psychologists. Revenues would not be affected.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** Section 10-217 of the State Government Article provides that the standard of proof in a contested case is the preponderance of evidence unless the standard of clear and convincing evidence is imposed on the agency by regulation, statute, or constitution.

**Background:** In general, the preponderance of evidence standard is used in State administrative hearings, and most Maryland occupation boards use this standard in their disciplinary hearings. The only exceptions are the Board of Law Examiners and the Board of Physician Quality Assurance. These boards impose the clear and convincing evidence standard, which requires a higher level of proof by the boards. Nationally, only two other states, California and Oklahoma, hold their boards of psychologists to this higher standard of proof. Arkansas and Kansas hold their boards to a lower standard, requiring only

“substantial” evidence in an administrative proceeding.

**State Effect:** Special fund expenditures for the Board of Examiners of Psychologists may increase by a minimal amount in fiscal 2001. The board has approximately three or four disciplinary hearings per year. In addition, the board is able to resolve approximately ten disciplinary proceedings before they go to a hearing. Increasing the standard of proof could encourage psychologists facing disciplinary proceedings to have their cases adjudicated in a full hearing. In addition, the higher standard of proof could increase the board’s legal expenses in order to meet the higher burden of proof during disciplinary hearings. There are insufficient data at this time to determine how many additional hearings may occur as a result of the higher standard of proof provision, or to determine any increase in legal resources and fees that would be required to meet a higher standard of proof. However, given the low number of hearings currently conducted by the board, any increase is expected to be minimal.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene (Board of Examiners of Psychologists), Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2000  
drg/jr

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