

**Department of Legislative Services**

Maryland General Assembly

2002 Session

**FISCAL NOTE**

Senate Bill 615

(Senator Jimeno)

Judicial Proceedings

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**State Health Plan - False Representation**

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This bill prohibits a person from making a false representation relating to a State health plan. A person who violates this provision is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding three years or a fine not exceeding \$50,000, or both. A health care provider who violates this provision is liable to the State for a civil penalty of not more than three times the amount of the overpayment.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** A State health plan includes: (1) the Medicaid program; (2) a health insurer, HMO, Medicaid managed care organization (MCO), health care cooperative or alliance, or other person that provides or contracts to provide health care services that are wholly or partly reimbursed by, or are a required benefit of, the Medicaid program. "False representation" means the knowing and willful: (1) concealing, falsifying, or omitting of a material fact; (2) making of a materially false or fraudulent statement; or (3)

use of a document that contains a statement of material fact that the user knows to be false or fraudulent.

State criminal prohibitions relating to Medicaid fraud generally provide that a person may not: (1) defraud a State health plan; (2) benefit from conversion under a State health plan; (3) offer a bribe or receive a kickback under a State health plan; (4) solicit or receive a rebate of a fee or charge for referring another individual to a State health plan; (5) make a false representation to assist a facility, institution, or State health plan qualify to receive reimbursement; (6) benefit from fraud of a State health plan; or (7) possess a benefit card without authorization. A person guilty of any of these violations is subject to various criminal and civil penalties, depending on the severity of the offense.

Specifically, a person may not knowingly and willfully obtain or attempt to obtain by means of false representation money, property, or any thing of value in connection with the delivery of or payment for a health care service that is wholly or partly reimbursed by, or is a required benefit of, a State health plan. A person may not make a false representation relating to a health care service or a State health plan with the intent to defraud.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2003 are estimated to range from \$10 to \$61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$20 to \$84 per inmate in fiscal 2003.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 822 (Delegates Barkley and Grosfeld) – Judiciary.

**Information Source(s):** Department of Public Safety and Correctional Services (Division of Correction, Division of Pretrial Detention and Release Services), Department of Budget and Management (Employee Health Benefits Division), Department of Health and Mental Hygiene (Maryland Health Care Commission), Department of Legislative Services

**Fiscal Note History:** First Reader - March 1, 2002  
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