

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

Revised

Senate Bill 537

(Senator Hollinger, *et al.*)

Education, Health, and Environmental Affairs

Economic Matters

Labor and Employment - Nurses - Involuntary Overtime Prohibition

This bill prohibits an employer from imposing involuntary overtime work that exceeds a predetermined work schedule except in specified emergency circumstances.

Fiscal Summary

State Effect: Any increase in general fund expenditures for additional nursing staff or for nursing employment agencies if core staff is unavailable for overtime work should be able to be handled with existing resources.

Local Effect: The bill's requirements could be handled with existing resources.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill provides that generally, an employer may not require a nurse to work more than the regularly scheduled hours according to a predetermined work schedule. However, a nurse may be required to work overtime if:

- the work is due to an emergency situation that could not have been reasonably anticipated;
- the emergency situation is nonrecurring and not caused by an employer's lack of reasonable contingency planning;

- the employer has exhausted all good faith, reasonable attempts to procure voluntary workers for the subsequent shifts;
- the nurse has critical skills and expertise that are required for the work;
- the standard of care requires continuity through completion of a case, treatment, or procedure; and
- the employer informed the nurse of the basis for the mandate and that basis satisfies other requirements as specified in the bill.

A nurse may also be required to work overtime if employment requires on-call rotation or the nurse works in community-based care.

The bill provides that a nurse may not be considered responsible for a patient's care beyond the nurse's predetermined work schedule if the nurse has notified another appropriate nurse of the patient's status and has transferred responsibility for the patient's care to another appropriate nurse or properly designated individual. The employer must exhaust all good-faith reasonable attempts to ensure that appropriate staff is available to accept responsibility of a patient's care beyond a nurse's predetermined work schedule.

Current Law: "Wages" are defined as all compensation due to an employee for employment. An agreement to work for less than the required wage is void. Employers are generally required to compute the wages for overtime on the basis of each hour over 40 hours that an employee works during one workweek. However, the wage for overtime may be computed on the basis of each hour over 48 hours that an employee works during the workweek in an institution that is not a hospital, but is engaged in the care of individuals who are aged, sick, mentally or developmentally impaired and reside at an institution. Generally, an employer is required to pay an overtime wage of 1.5 times the usual hourly wage.

Background: It has been reported that a statewide shortage of nurses has led to an increase in the amount of overtime performed by nurses. Nationwide estimates indicate that within 20 years, the supply of registered nurses will be 20% lower than required. Chapters 257 and 258 of 2000 (SB 311/HB 363) established a commission to study the State's nursing shortage. The commission has developed several recommendations to attract more nurses to the State. A priority of the commission is to examine workplace issues, including an examination of work hours and workloads, and how these issues impact the State's ability to attract and retain nurses.

According to an Institute of Medicine report, hospital safety may be compromised due to poorly designed job factors and their impact on fatigue, inattentiveness, and sleep

deprivation. Such factors include work hours, workloads, staffing ratios, sources of distraction, and inversion of assigned shifts.

Additional Information

Prior Introductions: None. However, SB 732 of the 2001 session and its cross-file, HB 889, contained some of the provisions of this bill, which related to a prohibition against involuntary overtime for nurses. SB 732 received an unfavorable report from the Finance Committee. HB 889 received an unfavorable report from the Economic Matters Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, American Nurses' Association, Department of Legislative Services

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