

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 822  
Finance

(Senator Stone) (Baltimore County Administration)

Health and Government Operations

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**Contracts for Residential Child Care Programs**

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This bill requires the Governor's Office for Children (OC) to develop a State Resource Plan for Residential Child Care Programs to enhance access to services provided by these programs under a re-established Article 49D – Children, Youth, and Families. Members of the Children's Cabinet must adopt regulations to implement the bill.

The bill takes effect July 1, 2006.

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**Fiscal Summary**

**State Effect:** The bill's requirements could be handled with existing budgeted resources.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A residential child care program is an entity that provides 24-hour per day care for children within a structured set of services and activities designed to achieve specific objectives including the provision of food, clothing, shelter, education, social services, health, mental health, recreation, or any combination of these services and activities. It includes a program licensed by the Department of Human Resources (DHR), the Department of Health and Mental Hygiene (DHMH), and the Department of Juvenile Services (DJS) and that is subject to regulations of the members of the

Children's Cabinet governing program operations. It excludes sites licensed by the Developmental Disabilities Administration within DHMH.

The resource plan must be developed in consultation with DHR; DHMH; and DJS; service providers; counties; child advocates; consumers; and any other State department, agency, or person interested in the plan's development.

The plan must:

- provide a framework for OC and agencies to procure residential child care program services that meet the needs identified in the plan;
- provide information on the county where each program is operated, each program's provider, each program's actual capacity and utilization rate, the ages of the children in the program, the county of children in the program, the services children require and a description of how those services are being provided, the agency that placed the child in the program, and any other relevant information;
- identify the types of services needed in programs and the estimated number of children requiring those services in each county;
- identify the counties where services are insufficiently supplied;
- establish an incentive fund for program development in counties where there are insufficient services; and
- identify the reasons children are placed in residential child care programs outside their county.

The plan must be issued by July 1, 2006, and be updated annually by July 1. Also, by January 1 each year, OC must report to the Governor, the Senate Finance Committee, and the House Health and Government Operations Committee on the plan's findings.

#### *Residential Child Care Program Contracts*

A contract awarded or renewed between an agency and a residential child care program provider must:

- require the provider to fulfill existing statutory licensing requirements;
- include statements of the services a provider is required to provide, the provider's explanation on how the program will fulfill the plan's objectives, and any other statement the agency considers necessary;
- require the provider to report to the contracting agency in writing within 24 hours after a critical incident, as defined in regulation, involving a child in their care;

- require the provider to report community complaints and their resolution within 10 days;
- require the program to provide health care services to the children in their care;
- require the provider to maintain health care records during the child’s placement;
- require a provider to comply with the program licensing requirements under § 7-309 of the Education Article of the Annotated Code of Maryland;
- include a plan for the program’s interaction with the surrounding community, including a mechanism for responding to complaints;
- require an annual financial disclosure;
- require a provider and the provider’s employees having direct contact with children to be at least 21; and
- require the program to have a certified program administrator.

### *Single Point of Entry*

The bill acknowledges the existing “single point of entry” within OC as the first point of contact for potential providers interested in obtaining a license from DHR, DHMH, or DJS. The bill requires the single point of entry to provide a sample contract to applicants that includes an example of the provisions under the State resource plan required by the bill.

**Current Law:** A residential child care program includes group homes, alternative living units, and emergency shelter care. A program must be licensed by DHR, DHMH, or DJS. Only one license is necessary for a provider, even if services are provided to children placed in a program from multiple State agencies. A core set of regulations establishes the “single point of entry” application process for residential child care providers and a core set of provider licensing standards. However, each department monitors the facilities they place children in differently.

Licensed providers with legal custody or care and control of a child who is at least 5 and under the age of 16 and receives State funding must enroll the child in the local school system where the program is located unless the program operates an approved educational program. The provider must initiate and monitor the transfer of the child’s academic records from the school the child previously attended to the new school the child will attend. The provider must meet with the child’s teachers at the time the child is enrolled and at any other time the teacher requests and must sign the child’s report card.

A residential facility for children must maintain contracts or other agreements with appropriate health care providers to provide a physical examination, necessary medical

treatment, and appropriate mental health services for each child who lives in the facility for more than 30 consecutive days. A residential facility for children is defined as a public or private facility that provides shelter for minors for more than 30 consecutive days in an out-of-home placement. It includes a licensed child care institution or child care home, a group home, a State facility, a certified drug abuse facility, or a certified alcohol abuse facility.

Beginning October 1, 2007, an individual must receive a certificate from the State Board for Certification of Residential Child Care Program Administrators within DHMH before the individual may be a program administrator in Maryland. To qualify for a certificate, the individual must be of good moral character, have completed a State criminal history records check, be at least 21, have a bachelor's degree from an accredited college or university, and have at least four years in the human services field with at least three years as a supervisor or an administrator.

**Background:** During the 2005 interim, group home oversight was a topic of several hearings before the Senate Budget and Taxation Committee; the House Health and Government Operations Committee; and the Joint Committee on Children, Youth, and Families. During those hearings, legislators expressed concerns that group home oversight was not sufficient, group homes were concentrated in certain areas of the State, and certain providers were not adequately supervising and caring for the children they serve.

In fiscal 2004, Maryland placed 26,263 children in out-of-home placements at a cost of \$622 million. Group homes represent one form of out-of-home placements, with an average of 2,690 children residing in group homes each day at an annual cost of \$167 million. Group homes offer home-like settings that provide structure and 24-hour supervision, basic care, social work, and health care services. Many group homes utilize community-based ancillary services and enroll children in the local school system. Depending on the facility and the level of intensity of services, group home placements cost between \$34,000 and \$119,000 per child annually.

DHR, DHMH, and DJS license, monitor, and place children in group homes according to individual agency standards. DHR licenses and monitors 305 facilities (62%) and places approximately 80% of the children in group homes. DHMH licenses and monitors 167 facilities (34%) but places less than 1% of the children in group homes. DJS licenses 20 facilities (4%) and places approximately 19% of the children in group homes. DJS monitors all facilities in which it places children (124).

To become licensed as a group home, an applicant begins at OC, which serves as a "single point of entry" and refers applicants to the appropriate agency. Licenses are

issued for two years and must be obtained for each facility. The licensing agencies monitor group homes by reviewing records, inspecting the facility, and interviewing staff and residents. When a child is placed in a group home, a caseworker from that agency (*e.g.*, the local department of social services caseworker for DHR) is assigned to that child and is responsible for visiting the child regularly to monitor the child's progress and the appropriateness of placement.

If licensing violations are found in group homes, corrective action plans and sanctions are implemented. In fiscal 2004, DHR issued 14 sanctions, including closing 6 facilities, and placed 73 providers (41%) under corrective action plans. DHMH issued 10 sanctions, including the revocation of 1 license, the surrender of 3 licenses, and 6 intermediate sanctions or consent agreements. DJS implemented four moratoriums on placement at facilities with which it contracts but does not license.

Rates for group homes are set by the Interagency Rates Committee (IRC), which is staffed by the Maryland State Department of Education. Group homes are assigned to a category based on service intensity, detailed budget submissions are reviewed to identify allowable costs, and programs are compared to other providers in the same category and designated as "preferred" or "nonpreferred" based on their relative costs. The IRC establishes a per diem rate for each group home that is paid by all agencies that contract for beds with that home.

The main financial oversight of group homes is the requirement that providers submit annual independent audits to their licensing agencies. However, these audits are reviewed by licensing and monitoring staff rather than the IRC and do not factor into the development of the homes' rates.

The Department of Legislative Services conducted a review of licensing, monitoring, and contracting practices relating to group homes in 2005, noting three major observations. First, the State is not a smart purchaser of group home services. Referral practices and provider rates are neither standardized nor guided by performance data. Second, there is insufficient financial oversight of group homes. The rate setting process does not include a review of audits or actual spending patterns, licensing agencies do not compare budgets submitted by providers to actual spending patterns, and group homes are not required to spend a minimum amount of funding on direct care. Finally, the licensing and monitoring process is disjointed. There is no single agency guiding the system, and there are inconsistent practices and a lack of communication among agencies. There is no single point of entry for complaints about group homes, and, particularly for DHR, there is tension between the dual roles of enforcing licensing standards and maintaining adequate placement capacity. The licensing and monitoring agencies have also found it

difficult to perform the requisite number of inspections due to an insufficient number of staff.

The fiscal 2007 budget allowance for DHR includes 5 new positions for the licensing and monitoring function, which would bring the number of licensing and monitoring staff in DHR to 13 from the current 8. DHR also announced that the licensing and monitoring unit is being moved from the Social Services Administration to the Office of the Secretary to provide separation between programmatic and enforcement efforts.

DJS also announced that it will transfer six additional positions to its licensing and monitoring unit upon closure of the Hickey School. These transferred positions will more than double the number of monitoring staff in DJS from the current five.

Although DHMH has added an additional six surveyors (monitors) to the Office of Health Care Quality (OHCQ) via transfers in fiscal 2006 and is anticipating five new positions and three additional transfers to OHCQ in fiscal 2007, none of these new positions is currently expected to be added to the Developmental Disabilities unit which monitors the residential programs licensed by DHMH.

Article 49D, which had codified the Office for Children, Youth, and Families (OCYF) terminated July 1, 2005. An executive order issued in 2005 established OC to replace OCYF.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 813 (Delegate Morhaim, *et al.*) – Health and Government Operations.

**Information Source(s):** Governor's Office for Children, Department of Health and Mental Hygiene, Department of Human Resources, Department of Legislative Services

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