

**Department of Legislative Services**  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**

House Bill 980 (Delegate Nathan-Pulliam, *et al.*)  
 Health and Government Operations

**HIV Testing, Education, and Treatment for Inmates**

This bill requires a State or local correctional institution to test an inmate for HIV by a test and test procedure approved by the Department of Health and Mental Hygiene (DHMH). The inmate must be notified of the test results within 48 hours of the diagnosis and, to the extent possible, in a manner to protect the inmate’s confidentiality. When there is a positive test result, the correctional institution must provide the inmate with education on HIV infection and treatment, as specified.

The Department of Public Safety and Correctional Services (DPSCS), in consultation with DHMH, is required to establish HIV education programs in a specified manner. All correctional institutions must develop written procedures to carry out these provisions. A health care provider may not be held liable in any cause of action relating to HIV testing or performing and interpreting an approved HIV test without the informed consent of the inmate.

**Fiscal Summary**

**State Effect:** General fund expenditure increase of about \$9,123,100 in FY 2008, including grants from DHMH to local health departments. The local grants do not include the costs of treatment. Out-year costs reflect annualization and inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	9,123,100	11,827,900	11,946,200	12,065,600	12,186,300
Net Effect	(\$9,123,100)	(\$11,827,900)	(\$11,946,200)	(\$12,065,600)	(\$12,186,300)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Annual costs of about \$1,360,000 for local health departments, reimbursable through State grants.

**Small Business Effect:** Minimal.

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## Analysis

**Current Law and Background:** Maryland does not require testing for this disease among its inmate population. However, testing will be provided upon the request of an inmate.

HIV, the virus that causes AIDS, progressively destroys the body's ability to fight infections and certain cancers. The following states currently mandate or authorize HIV testing of inmates: Florida (prior to release); Georgia (all inmates); Michigan (all inmates at intake); North Dakota (inmates incarcerated for 15 days or more); Ohio (authorizes HIV and hepatitis testing at intake); Tennessee (all inmates at intake); Texas (authorized prior to release); and Utah (all inmates at intake). Arizona and Kentucky authorize the testing of inmates suspected of being HIV-positive.

New Jersey has mandated testing for hepatitis C, but not for HIV. New Jersey is adopting the newly revised Centers for Disease Control and Prevention (CDC) recommendations for HIV testing that individuals already in a health care setting be tested unless objected to by the individual.

Pennsylvania permits only the voluntary testing of inmates under a general HIV testing informed consent law. In 2006, the District of Columbia adopted a city-wide policy for HIV testing. DC's Department of Corrections has made plans to integrate an automatic HIV testing program into its routine medical intake procedures for inmates.

In fiscal 2006, the Division of Correction (DOC) had an intake of 14,664 inmates and a release total of 15,498. There were also about 17,700 persons in State pre-trial detention.

**State Expenditures:** According to Correctional Medical Services (CMS), DPSCS's current medical vendor, the per-unit costs for testing required under this bill are as follows:

- Basic HIV Test – \$11.50
- Follow-up HIV Viral Load Test – \$75
- Annual HIV Treatment – \$16,032

CMS estimates that approximately 8% of inmates tested for HIV will require follow-up up viral load tests. In fiscal 2006, the Division of Correction (DOC) had an intake of 14,664 inmates and a release total of 15,498. There were also about 17,700 pre-trial inmates in fiscal 2006 who would require testing under this bill. DPSCS also believes that about 600 persons per year would require treatment. Using the unit prices and follow-up figures cited above, the total approximate annual cost of intake and release testing would be as follows:

<u>Inmates</u>	<u>Test/Treatment Cost</u>	<u>Total</u>
14,700 (intake)	\$11.50	\$169,050
15,500 (release)	\$11.50	\$178,250
1,170 (intake)	\$75 HIV Follow-up	\$87,750
1,240 (release)	\$75 HIV Follow-up	\$93,000
17,700 (pre-trial)	\$11.50	\$203,550
600 (treatment)	\$16,032	\$9,619,200
<b>Total Annual Costs For State Correctional Facilities</b>		<b>\$10,350,800</b>

Accounting for the bill's October 1, 2007 effective date, general fund expenditures would increase by \$7,763,100 in fiscal 2008, and increase by about 1% annually.

In addition, reimbursements grants from DHMH to local health departments to cover the costs of testing and educating inmates in local correctional facilities would also increase by about \$1,360,000 annually, as discussed below.

The HIV education program required by the bill could be handled with existing resources.

**Local Expenditures:** DHMH estimates that costs for testing and educating inmates in local correctional facilities by local health departments would be roughly as follows.

- \$80,000 each year for Baltimore City and Anne Arundel, Baltimore, Charles, Frederick, Howard Montgomery and Prince Georges counties, totaling \$640,000; and

- \$40,000 each year for Allegany, Calvert, Caroline, Carroll, Cecil, Dorchester, Garrett, Harford, Kent, Queen Anne, Somerset, St. Mary's, Talbot, Washington, Wicomico, and Worcester counties, totaling \$720,000.

This does not include treatment costs of \$16,032 per person per year for an unknown number of persons who would test positive for HIV. Out-year costs are assumed to increase by about 1% annually.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2007  
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Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510