

Department of Legislative Services  
 Maryland General Assembly  
 2007 Session

FISCAL AND POLICY NOTE

House Bill 1361 (Delegate Robinson, *et al.*)  
 Health and Government Operations

Health Care and Personal Care Services - Abusive Employee Database

This bill establishes an abusive employee database in the Department of Health and Mental Hygiene (DHMH).

Fiscal Summary

**State Effect:** General fund revenues and expenditures could each increase by \$156,100 in FY 2008 to implement the required abusive employee database. Out-years include annualization and inflation.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	\$156,100	\$120,600	\$124,400	\$128,300	\$132,500
GF Expenditure	156,100	120,600	124,400	128,300	132,500
Net Effect	\$0	\$0	\$0	\$0	\$0

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

Analysis

**Bill Summary:** An “abusive employee” is an employee who is found by an employer to be abusive, neglectful, or harmful to an individual receiving health care or personal care services from the employer. An “employer” is a person that employs individuals to provide health or personal care services or to assist in providing such services to individuals who need them.

The bill requires DHMH to establish a secure, electronic database of abusive employees. The Secretary may adopt regulations to ensure the efficient operation of the database and may set a fee for database services, including initial and renewal fees to use the database. The fees set by the Secretary may not exceed the costs to establish and operate the database. DHMH may contract with a person to establish and operate the database, but maintains overall responsibility for the database. DHMH must carry out the appropriate educational and outreach efforts to increase employer awareness of the database and encourage its use.

An employer may submit the name of an abusive employee to DHMH for inclusion in the database with identifying and evidentiary information as specified in the bill.

The database must be accessible 24 hours per day, 7 days per week. The Secretary must specify the persons who are authorized to access the database including specified health care professionals and representatives. Regulations must be adopted to manage database access and to protect confidential information. DHMH may perform evaluations of the database. Before accepting a submission, DHMH must review and verify that the information contained in the submission is correct. DHMH may not accept a submission with incorrect or unverifiable information about an individual.

Within seven business days of receiving a submission, DHMH must notify the individual who is the subject of a submission of the database entry, including a written notice of the entry submission and the procedures for contesting the submission. DHMH is required to adopt regulations for individuals to contest their inclusion and to provide for expungement of those who have died, have been found not guilty, or who have successfully disputed the charges made by an employer.

**Current Law:** All prospective employees of adult dependent care programs, including adult medical day care, assisted living, home health agencies, residential services agencies, congregate housing services, and other related institutions, must complete a criminal background check that specifically identifies any history of physical abuse. DHMH is required to periodically inspect health care facilities that are licensed by the State. Allegations of abuse or neglect towards residents of health care facilities must be investigated.

**Background:** DHMH advises that its Office of Health Care Quality (OHCQ) investigated 158 allegations of abuse in fiscal 2006 and has collaborated with the Maryland Board of Nursing in a partnership with the University of Maryland Baltimore Center for Health Workforce Development and the Johns Hopkins School of Nursing to develop a national model curriculum for health facility surveyors to recognize elder abuse and neglect. The curriculum is intended to help surveyors assess, document, and

intervene in elder abuse and neglect cases in federally regulated health care facilities. The curriculum includes definitions, signs and symptoms of elder abuse and neglect, examination of the normal aging process and conditions that mimic abuse or neglect, other information about the manifestations of abuse or neglect, and the role of the health facilities surveyor when abuse or neglect is discovered.

DHMH also advises that the federal government requires states to maintain a nurses' aide registry of all individuals who have completed a nurses' aide training program and passed a competency evaluation test. According to the Maryland Board of Nursing, there are about 84,000 certified nursing assistants in the registry, of whom about 25,000 are geriatric nursing assistants. Of the 25,000 geriatric nursing assistants, 2,500 are certified medication aides. The Maryland Board of Nursing also certifies about 44,000 medication technicians. The certification application process includes a review of the applicant's background to ensure that the person can work with vulnerable adult populations. As of January 2007, the Maryland Board of Nursing requires a criminal history records check for registered nurse, licensed practical nurse, and certified nursing assistant applicants. In 2008, the Maryland Board of Nursing will phase in criminal history records check requirements for renewals of certifications for registered nurses, licensed practical nurses, and certified nursing assistants.

**State Effect:** General fund expenditures could increase by \$156,106 in fiscal 2008 based on the bill's October 1 effective date. This includes the cost of one-half assistant Attorney General to review and evaluate those individuals who would be submitted to the database, oversee overall implementation, and expunge those individuals who qualify, as well as one-half position for administrative support. It also includes the cost of one contractual position, in fiscal 2008 only, to set up the database required by the bill, contractual services to provide technical support and, for fiscal 2008 only, additional software licenses and servers. The estimate includes salaries, fringe benefits, one-time start-up costs and ongoing operating expenses.

Salaries and Fringe Benefits	\$43,454
Contractual Staff	44,049
Computer Licenses	10,000
Contractual Technical Support	45,000
Other Operating Expenses	<u>13,603</u>
<b>Total FY 2008 State Expenditures</b>	<b>\$156,106</b>

Future year expenditures reflect ● full salaries with 4.5% annual increases and 3% employee turnover; and ● 1% annual increases in ongoing operating expenses.

The bill authorizes DHMH to recover the cost of the bill's implementation by assessing fees that may not exceed the costs incurred by DHMH. It is assumed that fees would be set so as to recover all costs of establishing and operating the database.

DHMH advises that 10 additional permanent employees and related operating costs, including contractual services for database support, would be needed to implement the database required by this bill. Legislative Services disagrees with this assessment and advises that, while some additional resources may be needed, an electronic database could be established and maintained using resources and information available from the certification and investigation duties already performed by DHMH.

The Department of Human Resources, the Department of Juvenile Services, and the Maryland State Department of Education advise that the bill's provisions would not have a fiscal impact.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Juvenile Services, Department of Human Resources, Maryland State Department of Education, Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - April 4, 2007  
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