

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 791

(Senator Middleton)

Finance

Judiciary

Mental Health - Incarcerated Individuals with Mental Illness

This bill requires inmates with a mental illness to receive medication for that illness upon release; requires the Department of Health and Mental Hygiene's (DHMH) Mental Hygiene Administration (MHA) to compensate case managers for initial assessments of specified inmates; and requires specified reports and plans. The bill expresses legislative intent that MHA spend no more than \$150,000 in fiscal 2008 to implement the bill.

The bill takes effect June 1, 2007.

Fiscal Summary

State Effect: MHA general fund expenditures would increase by \$150,000 in FY 2008. Future year expenditures reflect 1,500 inmates receiving mental health assessments annually and inflation but do not account for additional services that might be provided. Existing MHA staff could develop the required plans and write the required reports. Existing resources within the Department of Public Safety and Correctional Services (DPSCS) and the Motor Vehicle Administration (MVA) could be used to develop the required plan for identification cards. DPSCS contracts already provide medication to inmates upon their release.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	150,000	303,000	306,000	309,100	312,200
Net Effect	(\$150,000)	(\$303,000)	(\$306,000)	(\$309,100)	(\$312,200)

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

Local Effect: Significant operational impact for core service agencies (CSAs) that must provide assessments to mentally ill inmates. However, costs associated with assessments would be reimbursed by DHMH.

Small Business Effect: None.

Analysis

Bill Summary: DPSCS must provide an inmate who has been sentenced to a term of incarceration in the Division of Correction and who has been diagnosed with a mental illness with access to a 30-day supply of medication for that illness. Part of the 30-day supply of medication may be provided by prescription if the inmate is provided sufficient medication on release that enables the inmate to remain medication-compliant until additional medication becomes available from filling the prescription. This requirement applies only if a treating physician determines that the released inmate's possession of medication in the quantity prescribed is in the inmate's best interest and possession of the medication will not constitute a danger to the released inmate.

DPSCS, a DPSCS employee, or a DPSCS agent (such as a physician) may not be held liable for issuing medication or a prescription for medication to an inmate on the inmate's release even though the released inmate is no longer under the prescribing physician's care or supervision and may be without medical supervision for the period during which medication has been administered.

MHA must compensate case managers or other appropriate community mental health providers for conducting initial assessments of inmates who are identified by DPSCS as having a serious mental illness and are expected to be released in three months.

Required Plans

MHA must develop a plan for the State to divert individuals with serious mental illnesses who come in contact with the criminal justice system to inpatient or outpatient mental health services if such services are more appropriate than confinement in a correctional facility.

MHA also must work with each CSA to develop a plan to enter into a memorandum of understanding with local detention centers to share data. Under this plan, a local detention center would be required to electronically submit information on each arrestee for each 24-hour period to the public mental health system's administrative services organization. This organization would then cross-reference the information to identify public mental health system enrollees with a serious mental illness within each jurisdiction and provide those individuals' names to that jurisdiction's CSA. A CSA then would be required to obtain the arrestee's consent to release treatment information to the

detention center health care provider and ensure that treatment information is available to appropriate detention center staff.

By January 1, 2008, MHA must report to specified legislative committees and the Transformation Grant workgroup on both plans.

DPSCS, collaborating with the MVA, must develop a plan to provide departing inmates with an identification card that includes information required to comply with the MVA's requirements for issuing a State identification card.

By January 1, 2008, DPSCS must report to specified legislative committees on this plan.

Current Law: Chapter 82 of 2005 required Department of Health and Mental Hygiene (DHMH), DHR, and DPSCS to convene a workgroup to make recommendations on actions to break the cycle of rearrest and reincarceration for individuals with mental illnesses. Chapter 628 of 2006 extended the workgroup's reporting deadline and expanded the scope of its required report.

Background: The Adult Criminal Justice and Mental Health Workgroup surveyed correctional facilities in Maryland to determine the prevalence of mental illness among the inmate population and the availability of services. The workgroup's final report, issued January 2007, found that statewide 927 detention center inmates (7.5% of the total population) had a serious mental illness; another 1,086 (11.8%) were identified as having a less serious mental illness, including inmates with a personality disorder (such as paranoid disorder). A serious mental illness is defined as a substantial disorder of thought, mood, perception, orientation, or memory (such as schizophrenia or psychotic disorder due to substance abuse or general medical condition) or meets criteria for persistent and disabling personality disorders.

The report also found that, within the Division of Correction (DOC), 1,950 inmates (8.5%) had a serious mental illness; another 2,618 (11.5%) had a less serious mental illness, including personality disorders.

At any given time, 12.5% of the prison inmates are receiving psychiatric medication. In detention centers, the percentage of inmates receiving psychiatric medication ranges from 3.3% in Washington County to 85% in Calvert County. Most local jurisdictions report medication rates in the 14% to 20% range. Not every inmate receiving psychiatric medication has a serious mental illness, as these medications are frequently used for nonmental health conditions, such as insomnia, according to the workgroup's report. The report did not specify when the inmate survey was conducted.

This bill implements several of the workgroup's recommendations to address rearrest and reincarceration of individuals with mental illnesses in Maryland. Those recommendations include:

- increasing State funding to hire six prison benefits coordinators to establish and lead a process within each prison to identify individuals with mental illnesses for whom Medicaid applications should be initiated prior to release and to complete applications for those individuals;
- increasing MHA funding to enable community case managers statewide to work with DOC inmates with serious mental illnesses prior to release in order to link them with medically necessary community mental health services and related supports;
- providing every inmate of a State or local correctional facility who requires psychiatric medications after release an adequate supply of those medications and a timely appointment with a psychiatrist so that medications can be continued without a lapse;
- requiring DPSCS and local jurisdictions to collaborate with the MVA to provide departing inmates with an identification badge or card that, to the extent possible, includes all the information necessary to comply with federal proof of identity requirements for issuance of a State identification card; and
- requiring MHA to direct CSAs to implement memoranda of understanding with local detention centers to share data.

State Fiscal Effect: MHA general fund expenditures would increase by \$150,000 in fiscal 2008, which reflects legislative intent for MHA to spend not more than that amount for the bill's purposes in the first year. However, Legislative Services advises that the estimated cost for assessments of all inmates under the bill would be \$300,000 in fiscal 2008 (an estimated 1,500 inmate visits each year at \$200 per assessment). As a result, it is assumed that only 750 inmates would receive an assessment in fiscal 2008.

The extent to which there would be additional costs associated with providing services after these assessments is not clear and has not been accounted for in this analysis; however, such costs could be significant. Nevertheless, any additional services could not be provided in fiscal 2008 because doing so would exceed the capped amount.

Existing MHA staff could develop the required plans and write the required reports. However, there could be additional costs to MHA depending on the final plans and whether those plans are implemented.

Future year MHA general fund expenditures reflect an estimated 1,500 inmates receiving a mental health assessment and inflation.

Existing DPSCS and MVA staff could develop the plan for providing inmates with an identification card.

DPSCS inmate medical contract expenditures would not increase as a result of this bill because the department's current contract for inmate medical services already provides access to a 30-day medication supply for inmates upon release.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources; Department of Health and Mental Hygiene; Maryland Department of Transportation; Department of Public Safety and Correctional Services; *Adult Criminal Justice and Mental Health Workgroup: Final Report*, January 2007; Department of Legislative Services

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