

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE

Senate Bill 464
Judicial Proceedings

(Senator Pugh, *et al.*)

Correctional Services - Inmates - Mandatory Health Testing

This bill requires the Department of Public Safety and Correctional Services (DPSCS) to test or provide for the testing of every inmate for HIV and Hepatitis C within 30 days of commitment to a State correctional facility and within 30 days of release from such a facility. Any State employee who complies with these provisions is granted a certain immunity from lawsuit and tort claims when acting within the lawful scope of duties required under these provisions.

The Secretary of Public Safety and Correctional Services is required to adopt regulations to implement these provisions, including on the confidentiality of test results, inmate counseling, and the provision of appropriate health care services for inmates who test positive for either disease.

Fiscal Summary

State Effect: General fund expenditure increase of \$1,651,800 in FY 2008 resulting from testing costs. 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	1,238,900	1,668,300	1,685,000	1,701,900	1,718,900
Net Effect	(\$1,238,900)	(\$1,668,300)	(\$1,685,000)	(\$1,701,900)	(\$1,718,900)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapters 249 and 457 of 2006 require the Department of Health and Mental Hygiene (DHMH) to take specified actions, as funds are available, to address Hepatitis C infection in Maryland. Those required actions include: conducting a needs assessment to determine the incidence of Hepatitis C infection in the State; coordinating with other units of State government to activate a Hepatitis C virus plan to educate, test, and treat populations within the units' jurisdiction; fund Hepatitis C virus pilot programs; and implement the 2005 report of the Hepatitis C Advisory Council. Beginning December 1, 2006, and annually thereafter, DHMH must report to the Governor and specified legislative committees on its activities. Chapters 249 and 457 terminate December 31, 2009.

Chapter 149 of 2003 established the State Advisory Council on Hepatitis C, which terminated September 30, 2005, to review and recommend changes to the Maryland Hepatitis C Prevention and Control Plan and solicit funds or grants to implement the plan. DHMH was required to staff the advisory council.

Background: Maryland does not require testing for these diseases 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 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.

DPSCS advises that approximately 12% of the 1,250 inmates enrolled in chronic care units throughout the department have tested positive for Hepatitis C. Hepatitis C testing is part of the department's inmate medical care contract.

In its 2006 hepatitis C virus prevention and control report, DHMH states that it continues to receive CDC funds for one public health professional to address hepatitis C issues. However, DHMH did not receive additional funds to fulfill the requirements established by Chapters 249 and 457 of 2006. According to the report, all DPSCS inmates are screened for behaviors that can increase their risk of hepatitis C infection. Treatment is offered for those inmates who test positive for hepatitis C and meet DPSCS treatment criteria. Inmates with high-risk behaviors receive hepatitis C prevention education. Inmates are offered Hepatitis A and B vaccines.

DHMH and DPSCS are discussing the potential development of a community-based transitional program for inmates who are identified as hepatitis C positive but who are released before they receive treatment. If such a program were developed, DHMH advises that the State would need to be awarded a private foundation grant in order to implement it.

Hepatitis C is an inflammation of the liver caused by a virus. The CDC reports that there are an estimated 3.9 million people in the United States who are currently infected with the hepatitis C virus. Of those, 2.7 million people are chronically infected. There were approximately 26,000 new hepatitis C infections nationwide in 2004. Of the people infected with Hepatitis C, 80% do not show signs or symptoms of the virus. Hepatitis C symptoms are jaundice, fatigue, dark urine, abdominal pain, loss of appetite, and nausea.

An estimated one-third of Maryland residents who have ever been infected with hepatitis C are aware of their status, approximately double the proportion aware of their status as recently as 1999, according to the final report of the State Advisory Council on Hepatitis C. Further, the council reported that laboratory support for Hepatitis C screening now is concentrated on the high-risk populations in Maryland. Surveillance principles for accurate categorization and counting of hepatitis C cases have been clarified and explained to local health department staff. Sensitivity to careful case follow up led to the detection of a hepatitis C outbreak affecting several Maryland jurisdictions in 2004.

In its final report, the advisory council made the following recommendations:

- seek funding to develop user-friendly web resources for hepatitis C awareness and education for health care professionals and the general public;
- develop recommendations for hepatitis C screening and treatment and assess compliance of all State and local agencies;
- support a Maryland-specific needs assessment to identify gaps in public awareness and professional education;
- review current surveillance and case follow-up methods and, if needed, seek

additional funding for additional professional and/or clerical resources to ensure complete, accurate, and timely case investigation, data entry, and triage of all hepatitis C reports in Maryland, and ensure all infected residents are aware of their status and how to access health care resources; and

- ensure that a schedule for annual review of the hepatitis C Prevention and Control Plan is established and that the review include comments solicited from hepatitis C cases and health care providers.

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 - \$75.00
- Basic Hepatitis C (HCV) Antibody Test - \$10.00
- Follow-up HCV Viral Load Test - \$39.00

CMS estimates that approximately 8% of inmates tested for HIV will require follow-up and approximately 18% of inmates tested HCV will require follow-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. Using the unit prices and follow-up figures cited above, the total approximate annual cost of intake (first 30 days) and release testing would be as follows:

<u>Inmates</u>	<u>Test/Cost</u>	<u>Total</u>
14,700 (intake)	\$21.50 (both initial tests)	\$316,050
15,500 (release)	\$21.50 (both initial tests)	\$333,250
1,170 (intake)	\$75 HIV Follow-up	\$87,750
1,240 (release)	\$75 HIV Follow-up	\$93,000
2,640	\$39 HCV Follow-up	\$102,960
2,790	\$39 HCV Follow-up	<u>\$108,810</u>
Total Cost For DOC Facilities		\$1,041,820

DPSCS also advises that there is an additional annual intake of about 17,700 pre-trial inmates under the department's temporary custody, who are not under the custody of DOC. Initial intake testing of these persons, with follow-up tests, would add approximately \$610,000 to these annual costs, for a DPSCS total of \$1,651,820.

Accounting for the bill's October 1, 2007 effective date, general fund expenditures would increase by \$1,238,865 in fiscal 2008, and increase by about 1% annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Laboratories Administration), Department of Public Safety and Correctional Services, Department of Legislative Services

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