

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 869 (Delegates Rosenberg and Hubbard)
 Health and Government Operations

Court-Ordered Drug and Alcohol Treatment - Aftercare Planning

This bill requires a substance abuse treatment facility to develop an aftercare plan for an individual referred to a treatment program as an alternative to incarceration.

Fiscal Summary

State Effect: General fund expenditures could increase by an estimated \$52,900 in FY 2008 to meet staffing requirements of the bill. Additional general and federal fund expenditures could result from increased referral to State assistance programs. Revenues would not be affected.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	52,900	65,700	69,100	72,800	76,600
GF/FF Exp.	-	-	-	-	-
Net Effect	(\$52,900)	(\$65,700)	(\$69,100)	(\$72,800)	(\$76,600)

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

Local Effect: Potential minimal impact on local assistance programs.

Small Business Effect: Potential minimal impact on providers of treatment services.

Analysis

Bill Summary: The bill requires the administrative head of a treatment facility to develop an aftercare plan prior to release of an individual referred to treatment as an alternative to incarceration. The written aftercare plan must include plans for services

that would be required for an individual's successful transition to the community, including medical or psychiatric care, drug counseling, vocational or social rehabilitation, housing, and case management services. The plan, developed in collaboration with the community programs and government agencies that will provide the aftercare services to the individual, must include any diagnoses, treatment, or medications that would affect the individual's transition. In addition, the plan must include the date of release, location of community placement, plan for continuing treatment, and list of referrals to applicable public and service agencies.

The staff of a treatment facility has to assist an individual in applying for benefits as soon as possible after he or she is accepted into treatment, with written information regarding the availability of services provided to the individual or guardian. Prior to release, staff must assist the individual in applying for available State and federal benefits, provided that the individual consents to the assistance. If an individual does not consent to an aftercare plan, a written statement to this effect must be placed in his or her record.

The bill requires the Secretary of Health and Mental Hygiene to periodically review the required aftercare plans to determine whether they meet the needs of the individuals for whom they are prepared. The Secretary must designate an existing employee to coordinate the department's programs designed to prevent homelessness among individuals with a drug or alcohol dependency.

The Department of Health and Mental Hygiene (DHMH) is required to consult with the departments of Human Resources; Housing and Community Development; and Labor, Licensing, and Regulation to develop a funding mechanism to provide aftercare services. DHMH is required to report to the General Assembly by October 1, 2008 on development of the funding mechanism.

Current Law: Before or during a criminal trial or before sentencing, the court may order DHMH to evaluate a defendant to determine whether the defendant is in need of substance abuse treatment if it appears to the court or is alleged by the defense that the defendant has a drug or alcohol problem.

If a court orders an evaluation, the evaluation must be conducted and a complete report of the results submitted within seven days to the court, DHMH, and the defense. When treatment is recommended, the report must name a specific program able to provide the treatment and give an actual or estimated date the program can begin treating the defendant. Only a defendant in a criminal case who has an alcohol or drug dependency and for whom no sentence of incarceration is in effect and no detainer is lodged can be committed to DHMH for treatment.

A court may commit a defendant to treatment as a condition of release, after conviction, or any other time the defendant voluntarily agrees to participate in treatment. Before committing a defendant, the court must offer the defendant the opportunity to receive treatment, obtain the written consent of the defendant, order a substance abuse treatment evaluation, and find that the recommended treatment is appropriate and necessary. The court may not order the defendant to be delivered for treatment until DHMH gives the court notice that an appropriate treatment program is able to begin treating the defendant.

As an alternative to incarceration for a criminal defendant charged with a nonviolent offense a State's Attorney may offer to dismiss the charge against a defendant or move that the court indefinitely postpone trial of the charge, provided that the defendant qualifies for drug or alcohol treatment. To qualify, a defendant must be evaluated for drug or alcohol abuse by DHMH, its designee, or a private provider. If the evaluation determines that the defendant is amenable to treatment, an appropriate treatment program approved by the Alcohol and Drug Abuse Administration must be recommended for the defendant.

A defendant must accept the offer and sign a consent form allowing disclosure of treatment information that may be required by criminal justice units. DHMH is required to notify the court when the defendant is released from treatment. A State's Attorney must dismiss the charge against the defendant upon successful completion of the drug or alcohol treatment. A defendant who leaves treatment without authorization constitutes probable cause for a court to issue a warrant for his or her arrest.

These options are not available to (1) a person charged with a crime of violence, abuse and other offensive conduct, stalking or harassment, second degree assault, reckless endangerment, volume dealer, kingpin, importer of a controlled dangerous substance (CDS), use of weapon as a separate crime in connection with CDS, carrying a firearm if a convicted felon, or use of a minor in connection with CDS; or (2) a person who has been convicted of a crime of violence within the previous five years.

Background: The provisions in this bill are similar to provisions in mental health law that require the administrator of a mental health facility to develop an aftercare plan for individuals who no longer receive inpatient services for a psychiatric disorder. These plans are designed to reduce homelessness among individuals released into the community by matching these individuals with appropriate social and vocational services.

State Fiscal Effect: An estimated 500 individuals will be committed to DHMH in fiscal 2007 under the auspices of Health-General 8-507, which allows the courts to refer an individual to substance abuse treatment as an alternative to incarceration. The bill would

require administrators of the private facilities in which defendants receive treatment to prepare an appropriate aftercare plan. In addition, it would require an existing employee of the department to coordinate programs to prevent homelessness among individuals with a drug or alcohol dependency.

It is likely that private treatment facilities could develop aftercare plans with existing resources. Under State regulation, a treatment program is already required to establish a written summary that includes continuing service recommendations for an individual discharged from treatment.

Notwithstanding the language in the bill, the department may require an additional employee to coordinate aftercare and homelessness prevention efforts. Recent efforts to limit growth in the State workforce have reduced staff available for new programs and projects. An individual reassigned to oversee development and implementation of homelessness prevention efforts would create the need for additional staff to maintain current operations. General fund expenditures could increase by an estimated \$52,905 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring one program administrator and includes salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect

- full salary with 4.5% annual increases and 3% employee turnover; and
- 1% annual increases in ongoing operating expenses.

Other departments affected by this bill, including Human Resources and Labor, Licensing, and Regulation, advise that current service programs could likely accommodate individuals referred for services with existing resources. The Department of Housing and Community Development advises that the requirements of the bill would necessitate additional funds, but the department is unable to quantify the scope or cost at this time. To the extent that individuals discharged from treatment are referred to State and federal assistance programs, expenditures from these programs could increase.

Small Business Effect: Substance abuse treatment providers, many of which are small businesses, could experience a marginal increase in workload due to the bill's requirements. Because discharge summaries are already required of providers, the effect of this bill would be expected to be minimal for providers.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources; Judiciary (Administrative Office of the Courts); Department of Housing and Community Development; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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mll/jr

Analysis by: Suzanne O. Potts

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