

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1168 (Delegate Guzzone)
Health and Government Operations

Consent of Minors for Health Care - Detention and Correctional Facilities

This bill specifies that a minor has the same capacity as an adult to consent to certain initial screenings, immunizations, and physical examinations if the minor is (1) committed to the custody of the Commissioner of Correction, or the Commissioner of Pretrial and Detention Services; (2) under the supervision of the Department of Juvenile Services (DJS) in specified juvenile facilities; or (3) detained in an adult detention center. The bill also repeals language that permits DJS to consent to the immunization of a minor when a parent has not acted on a request by DJS to consent and has not expressly denied to the department the authority to consent to the immunization of the minor.

Fiscal Summary

State Effect: The bill primarily facilitates the provision of dental and mental health screenings and immunizations. Any increase in vaccinations given and such screenings due to the bill can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: When a parent has been contacted and requested to consent to the immunization of a minor, DJS may consent to the immunization of a minor in its care and custody if the parent has not acted on the request of the department and has not denied to the department the authority to consent to the immunization of the minor.

A minor has the same capacity as an adult to consent to treatment for or advice about drug abuse, alcoholism, venereal disease, pregnancy, and contraception other than sterilization. In addition, a minor has the capacity to consent to a physical examination and treatment of injuries from an alleged rape or sexual abuse, a physical examination to obtain evidence of an alleged rape or sexual offense, and an initial medical screening and physical examination after admission into a detention center.

Background: The majority of minors impacted by this bill will be under the supervision of DJS. DJS operates facilities to diagnose, care for, train, educate, and properly rehabilitate children who need services. DJS is also authorized to contract with private providers to place children in other facilities that meet State licensing criteria.

DJS must serve children in the juvenile services system with programming that:

- ensures the safety of the community and the children served;
- holds delinquent children accountable to victims and communities; and
- assists children to develop competencies to become successful members of society.

Children who receive vaccinations at DJS facilities receive them through the Vaccines for Children Program (VFC). VFC is a federally funded program that provides vaccines at no cost to children who might not otherwise be vaccinated due to financial hardship. VFC was created by the federal Omnibus Budget Reconciliation Act of 1993 as a new entitlement program to be a required part of each state's Medicaid Plan. Funding for the VFC program is approved by the federal Office of Management and Budget (OMB) and allocated through the Centers for Medicare and Medicaid Services to the Centers for Disease Control and Prevention (CDC). CDC buys vaccines at a discount and distributes them to grantees, such as state and local health departments, who distribute them to VFC providers. DJS incurs no additional costs by administering vaccines through VFC.

Children up to 18 years of age who are eligible for Medicaid, uninsured, underinsured, or American Indian or Alaska Native may receive vaccinations under VFC. Children insured under the State Children's Health Insurance Program are ineligible for VFC program benefits.

The majority of minors under DJS supervision are not up to date with their vaccinations. When possible, the department attempts to ensure that children are up to date on vaccinations when they leave DJS care. However, DJS has experienced difficulties in obtaining timely consent from parents of minors. Since the average length of stay in a DJS facility ranges from 14 to 16 days, sometimes DJS is unable to get in contact with a

parent of a minor, and the minor leaves the DJS facility without up-to-date vaccinations. In addition, the H1N1 epidemic exacerbated parental consent issues within DJS. Due to the volume of children in DJS facilities, the likelihood of a child contracting an illness or virus is heightened; therefore, the department wanted to immunize children against the H1N1 virus. In some instances, children expressed that they wanted the H1N1 vaccination, but they were unable to receive it because their parents would not consent to the vaccination or DJS was unable to reach the parent to obtain consent.

DJS also has difficulties obtaining consent for medical screenings. More specifically, a child who initially enters a DJS facility typically undergoes a mental health screening. In order to perform a mental health screening, parental consent is needed for children ages 16 or younger. In some instances, parental consent cannot be obtained in a timely matter, making it difficult to give a minor the necessary health care services.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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