

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 346 (Delegate Donoghue, *et al.*)
Health and Government Operations

Finance

Health - State Facilities and Residential Centers - Definition of Abuse

This bill alters the definition of “abuse” for purposes of certain reporting requirements related to State facilities and residential centers. The bill specifies that “abuse” does not, for those purposes, include an action taken by an employee that complies with applicable State and federal and Department of Health and Mental Hygiene (DHMH) policies on the use of physical intervention.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: The bill does not directly affect governmental finances or operations.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A “facility” means a clinic, hospital, or other institution that provides treatment or other services for individuals who have mental disorders. A “facility” does not include either (1) a Veterans’ Administration hospital; or (2) an acute general care hospital that does not have a separately identified inpatient psychiatric service. With regard to *State* facilities, a person who believes that an individual in a facility has been abused must promptly report the alleged abuse to (1) an appropriate law enforcement agency; or (2) the facility’s administrative head, who must promptly report the alleged abuse to an appropriate law enforcement agency. For purposes of these reporting

requirements, “abuse” means cruel or inhumane treatment that causes any physical injury or sexual abuse; “abuse” does not include the performance of an accepted medical procedure properly ordered by a physician.

A “State residential center” means a place that (1) is owned and operated by the State; (2) provides residential services for intellectually disabled individuals who require specialized living arrangements; and (3) admits nine or more intellectually disabled individuals. With regard to State residential centers, a person who believes that a developmentally disabled individual has been abused must promptly report the alleged abuse to the center’s executive officer or administrative head, who must subsequently report the alleged abuse to an appropriate law enforcement agency. The Developmental Disabilities Administration (DDA) must maintain a central registry of abuse reports and their dispositions. For purposes of these reporting requirements, “abuse” means (1) inhumane treatment; (2) sexual abuse; or (3) any physical injury that is inflicted willfully or with gross recklessness. “Abuse” does not include the performance of (1) an accepted medical procedure ordered by a physician, or (2) an accepted behavioral procedure ordered by a licensed psychologist or psychiatrist.

Both the Mental Hygiene Administration and DDA have adopted regulations regarding least restrictive methods of restraint.

Additional Information

Prior Introductions: None.

Cross File: SB 384 (Senator Mathias) - Finance.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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