

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 382 (Delegate B. Robinson, *et al.*)
 Health and Government Operations

Department of Health and Mental Hygiene - Health Care Facilities - Abuser Registry

This bill requires the Secretary of Health and Mental Hygiene to establish a registry that includes the name and Social Security number of any employee terminated for abusing or neglecting a person in a health care facility. The bill prohibits a health care facility from employing an individual who is listed in the registry and requires each health care facility to adopt an employee grievance procedure.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$167,400 in FY 2013, which accounts for the bill’s October 1, 2012 effective date. This estimate reflects the cost of establishing and maintaining the required registry, including hardware, software, contractual services associated with the development of the registry, and permanent staffing. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	167,400	80,100	84,500	87,900	91,400
Net Effect	(\$167,400)	(\$80,100)	(\$84,500)	(\$87,900)	(\$91,400)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: An employee must be placed in the registry if (1) the employee grievance procedure established under the bill has been followed; (2) an investigation finds that the abuse occurred; (3) the employee has been terminated; and (4) no charges have been filed. The registry must include employees terminated for abusing or neglecting the following individuals: a senior citizen, a disabled individual, a developmentally disabled individual, an individual receiving care by an in-home aide, or any individual incapable of self-defense.

A health care facility may access the registry if the licensing authority has determined that the health care facility should have access to the registry and the facility is determining whether a person seeking employment is listed in the registry. The health care facility may not allow an employee to access the registry unless the employee has been granted access to confidential records. However, a person responsible for an individual who is receiving care by an in-home aide may access the registry.

Current Law/Background: “Health care facility” generally refers to hospitals, nursing homes, ambulatory surgical facilities, certain inpatient facilities for the disabled, home health agencies, and hospices. A continuing care retirement community (CCRC) is not a health care facility.

Typically, if an employee working with vulnerable populations commits suspected abuse or neglect, the facility completes an incidence report with its licensing agency and an investigation is conducted. If the investigation finds that the abuse or neglect took place, the employee is terminated. In many cases, the abuse or neglect may not be criminal; thus, no charges are filed. Following termination, the employee may seek employment at another facility that is unaware of the prior abuse or neglect committed by that individual.

According to the Office of Health Care Quality (OHCQ), the bill requires DHMH to collect termination information from at least 2,093 licensed health care facilities, including 1,369 assisted living facilities, 341 ambulatory surgical centers, 232 nursing homes, 66 hospitals, 53 home health agencies, 30 hospices, and 2 intermediate care facilities for intellectually disabled individuals.

State Expenditures: General fund expenditures increase by at least \$167,355 in fiscal 2013, which accounts for the bill’s October 1, 2012 effective date. This estimate reflects the cost of establishing and maintaining the required registry, including hardware, software, and contractual services associated with the development of the registry. The estimate also reflects the hiring of one part-time (50%) assistant Attorney General to evaluate data for inclusion in the registry and one part-time (50%) secretary to enter data into the registry. This represents the minimum level of additional staff that is needed

under the bill, based on the number of facilities affected. It is not clear how many individuals would meet the criteria for placement on the registry (which would include only employees who have been terminated but not criminally charged). If DHMH receives a high volume of referrals under the bill, staffing costs increase accordingly. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position (full-time equivalent)	1.0
Salaries and Fringe Benefits	\$46,429
One-time Start-up Costs	4,063
Ongoing Operating Expenses	12,863
Contractual Services	80,000
Hardware	15,000
Software	<u>9,000</u>
Total FY 2013 State Expenditures	\$167,355

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Upon review of the bill, DHMH does not anticipate that it will be eligible for any federal matching funds.

OHCQ advises that an additional \$78,000 may be needed to train each of its 120 surveyors in the policies associated with the new registry. In addition, the Mental Hygiene Administration (MHA) and the Developmental Disabilities Administration (DDA) each advise that one additional full-time position may be needed to make referrals and/or reports to DHMH as necessary. However, Legislative Services advises that OHCQ, MHA, and DDA can likely handle these requirements with existing resources.

Additional Information

Prior Introductions: HB 1162 of 2010 received an unfavorable report from the House Health and Government Operations Committee. HB 499 of 2009, a similar bill, received a hearing in the House Health and Government Operations Committee and was subsequently withdrawn.

Cross File: SB 316 (Senator Pugh, *et al.*) - Finance.

Information Source(s): Caroline, Howard, and Montgomery counties; Baltimore City; Department of Human Resources; Department of Disabilities; Department of Health and

Mental Hygiene; Department of State Police; Maryland Department of Aging;
Department of Legislative Services

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Analysis by: Jennifer A. Ellick

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