

**Department of Legislative Services**  
 Maryland General Assembly  
 2013 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 790  
 Finance

(Senator Manno)

Health and Government Operations

**Department of Health and Mental Hygiene - Advance Directive Registry - Fee and Date of Operation**

This bill requires the Secretary of Health and Mental Hygiene to establish, by regulation, fees (including initial and renewal fees) for any service of the Advance Directive Registry. In addition, the bill requires the Department of Health and Mental Hygiene (DHMH) to take all the steps necessary to make the registry operational by October 1, 2014.

**Fiscal Summary**

**State Effect:** Total State expenditures increase by \$171,600 (including \$96,600 in general funds and \$75,000 in federal funds) in FY 2014 to establish the required registry and by at least \$122,000 (in general funds) annually beginning in FY 2015 to maintain the registry. General fund revenues are not affected in FY 2014 but increase by \$10,000 in FY 2015 to reflect fees collected in the first year of operation. Future years reflect growth in participation.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF Revenue	\$0	\$10,000	\$15,000	\$20,000	\$25,000
GF Expenditure	\$96,600	\$122,000	\$138,400	\$180,300	\$191,700
FF Expenditure	\$75,000	\$0	\$0	\$0	\$0
Net Effect	(\$171,600)	(\$112,000)	(\$123,400)	(\$160,300)	(\$166,700)

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

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Current Law/Background:** Chapter 223 of 2006 (SB 236) established an Advance Directive Registry in DHMH and required the Maryland Department of Transportation to add an advance directive notation on driver's licenses and identification cards. However, the registry has not yet been implemented.

The Secretary of Health and Mental Hygiene *may* establish, by regulation, fees (including initial and renewal fees) for any service of the Advance Directive Registry. Such fees may not, in the aggregate, exceed the department's costs to establish and operate the registry. DHMH is responsible for the registry but may, by contract, obtain from any person service related to the establishment and operation of the registry. The department is required to carry out appropriate educational and outreach efforts to increase public awareness of the registry.

Advance directives protect an individual's right to choose or to refuse various forms of health care (even in the face of the development of decisional incapacity) by transferring a critical health care decision point from the time of a patient's decisional incapacity to an earlier time when the person is fully competent. However, it is sometimes difficult for a health care provider to determine whether a specific patient has an advance directive – particularly when a patient is unresponsive or has no accompanying family members or friends. Although several national registries allow health care providers to search for directives, it is unclear how widely publicized these registries are within Maryland.

**State Fiscal Effect:** As noted above, Chapter 223 of 2006 authorized but did not require the establishment of an Advance Directive Registry in DHMH. Because the registry was never – but is required by the bill to be – implemented, State expenditures (general and federal funds) increase beginning in fiscal 2014 to establish the registry and general fund revenues increase beginning in fiscal 2015 to reflect fees collected. However, this estimate differs from a previous estimate, as described below.

In the fiscal and policy note for SB 236, the Department of Legislative Services (DLS) estimated that general fund expenditures would increase by \$321,340 beginning in fiscal 2008 to reflect \$110,000 in one-time start-up costs and \$211,340 in ongoing operating expenses (including contractual services and permanent staffing) associated with establishing and maintaining the registry. DLS further estimated that general fund revenues would increase (due to fees collected) by \$10,000 in the first year of implementation, \$15,000 in the second year of implementation, and \$20,000 in the third year of implementation.

DHMH advises that its current estimated revenues remain consistent with the previous estimate. Thus, general fund revenues are not affected in fiscal 2014 but increase by

approximately \$10,000 in fiscal 2015 when the registry becomes operational as required by the bill. (Future year revenues reflect growth in participation.) However, DHMH further advises that actual general fund expenditures are likely to be lower than previously estimated due to the availability of federal grant funding and the department's new ability to utilize the existing infrastructure of the Health Information Exchange. Specifically, DHMH advises that total State expenditures increase by \$171,640 (including \$96,640 in general funds and \$75,000 in federal grant funds, which are assumed to be received absent the bill expended for this purpose) in fiscal 2014 to establish the registry and by \$121,957 in fiscal 2015 to maintain the registry.

Fiscal 2015 expenditures reflect contractual services associated with maintaining the registry as well as the cost of hiring one part-time (50%) administrator on October 1, 2014 (the date by which the registry must be operational), to oversee the registry. The estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salaries and Fringe Benefits	\$28,706
Ongoing Contractual Services	86,600
Other Operating Expenses	<u>6,651</u>
<b>Total FY 2014 State Expenditures</b>	<b>\$121,957</b>

Future year expenditures reflect the full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and growth in registry participation (which impacts maintenance costs).

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 915 (Delegates Arora and Cullison) - Health and Government Operations.

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

**Fiscal Note History:** First Reader - February 27, 2013  
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