

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

Senate Bill 455
 Finance

(Senator Reilly, *et al.*)

Public Health - Abortion Survey System

This bill requires the Department of Health and Mental Hygiene (DHMH) to establish a mandatory abortion survey system through which providers must report specified information regarding abortion procedures. DHMH must annually produce and submit, to the Governor and the General Assembly, a comprehensive statistical report based on the data submitted. The department is required to adopt regulations to carry out the bill.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$306,000 in FY 2014, which reflects one-time costs associated with the development and implementation of an electronic data system as well as ongoing costs associated with the hiring of one full-time research statistician to produce the required statistical report for DHMH. Future years reflect elimination of one-time only costs, ongoing system maintenance, annualization, and inflation. The bill’s penalty provisions are not expected to materially affect State finances.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	306,000	106,300	109,500	112,900	116,400
Net Effect	(\$306,000)	(\$106,300)	(\$109,500)	(\$112,900)	(\$116,400)

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

Local Effect: The bill’s penalty provisions are not expected to materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires DHMH to establish a mandatory abortion survey system to (1) identify the characteristics of women who are at high risk of unintended pregnancy; (2) evaluate the effectiveness of programs for reducing teen pregnancies and unintended pregnancies among women of all ages; (3) calculate pregnancy rates based on abortion data, birth data, and pregnancy loss estimates; (4) monitor changes in clinical practice patterns related to abortion, including changes in the types of abortion procedures used, weeks of gestation when the abortion is performed, and maternal mortality rates of specific abortion procedures.

The abortion survey form developed by DHMH must include specified data, including (1) the name of the hospital or facility where the abortion was performed; (2) the city or town where the abortion was performed; (3) the patient's county and state of residence, age, race, marital status, and highest education level achieved; (4) the date on which the abortion was performed; (5) the date of the patient's last normal menses; (6) the clinical estimate of gestation; (7) the number of prior live births, miscarriages, and abortions experienced by the patient; (8) the type of abortion procedure used; (9) the name of the attending physician; and (10) the name of the individual completing the report. The form may be made available in an electronic format, in which case DHMH may require a hospital or facility in which an abortion is performed to submit the form electronically.

A hospital or facility that is required to report an abortion under the bill must submit the required abortion survey form to DHMH by January 15 of each year. (The bill's reporting requirements do not apply to a hospital that submits information on abortions to the State Health Services Cost Review Commission (HSCRC).) Such a report is confidential and not a public record, may not include the name of the patient whose pregnancy was terminated, and must not be destroyed by DHMH after the data is used.

DHMH must, by October 1 of each year, submit to the Governor and the General Assembly a comprehensive statistical report based on the data in the abortion survey forms submitted under the bill. The report must be available for public inspection and copying but may not include the name of any patient, facility in which an abortion was performed, or physician.

A physician who fails to submit a required report under the bill is guilty of unprofessional conduct and is subject to disciplinary action by the State Board of Physicians. An individual other than a physician who willfully violates the bill's reporting requirements is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$500 for each violation. In addition, an individual who violates the bill's confidentiality requirements is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$5,000 for each violation.

Current Law: The State may not interfere with a woman's decision to end a pregnancy before the fetus is viable or at any time during a woman's pregnancy if the procedure is necessary to protect the life or health of the woman or the fetus is affected by a genetic defect or serious deformity or abnormality. A viable fetus is one that has a reasonable likelihood of surviving outside of the womb.

If an abortion is provided, it must be performed by a licensed physician. A physician is not liable for civil damages or subject to a criminal penalty for a decision to perform an abortion made in good faith and in the physician's best medical judgment following accepted standards of medical practice.

Background: In 2008, 1.2 million American women obtained abortions, producing a rate of 19.6 abortions per 1,000 women of reproductive age. (This represents a 1% increase since 2005, when the abortion rate was 19.4 abortions per 1,000 women.) In Maryland in 2008, 34,290 women obtained abortions at a rate of 29 abortions per 1,000 women of reproductive age. (This represents an 8% decrease in abortions performed in Maryland since 2000, when the rate was 31.5 abortions per 1,000 women.) However, 87% of U.S. counties had no abortion provider in 2008 and one-third of American women lived in these counties. Therefore, it is likely that some women who received abortions in Maryland were from other states, while some Maryland residents received abortions in other states. For this reason, the Maryland rate may not accurately reflect the abortion rate of State residents.

In 2008, there were 34 abortion providers in Maryland. This represents a 17% decline from 2005, when there were 41 abortion providers. Approximately 4% of abortions performed in Maryland are provided at hospitals.

State Expenditures: The bill's reporting requirements do not apply to hospitals that submit information on abortions to HSCRC. Because hospitals are required to submit to HSCRC appropriate codes for *all* procedures, it is assumed that only nonhospital facilities are affected by the bill's reporting requirements.

The bill authorizes DHMH to require survey forms to be submitted in an electronic format. Given the trend toward utilizing electronic rather than paper records, the department advises that it is likely to exercise this authority and require the relevant data to be submitted electronically. DHMH further advises that it must hire two full-time permanent employees to implement the bill: one full-time research statistician to review data submitted and produce the required statistical report and one full-time administrative officer to assist facilities in their submission of the required data. The Department of Legislative Services (DLS) concurs that permanent staff is needed to review data submitted and produce the required report but advises that the extent to which facilities are likely to require assistance in submitting the required data is unknown. DLS further

advises that the research statistician may be able to assist with the provision of any necessary assistance. Thus, this estimate reflects the minimum additional staff necessary to implement the bill; actual expenditures may vary to the extent that the facilities require assistance in complying with the bill's reporting requirements.

Accordingly, general fund expenditures increase by at least \$305,983 in fiscal 2014, which accounts for the bill's October 1, 2013 effective date. This estimate reflects \$250,000 in one-time costs associated with the development and implementation of an electronic data system as well as the cost of hiring one full-time research statistician to produce the required report. It includes salaries, fringe benefits, other one-time start-up costs, and ongoing operating expenses.

Research Statistician	1
Salary and Fringe Benefits	\$48,012
Electronic Data System	250,000
Other Operating Expenses	<u>7,971</u>
Total FY 2014 Expenditures	\$305,983

Future year expenditures reflect a full salary with annual increases and employee turnover, ongoing operating expenses (including contractual services associated with maintaining the electronic data system), and annual increases in ongoing operating expenses.

The bill's disciplinary requirements can be handled with existing resources. The bill's penalty provisions are not expected to materially affect government finances.

Additional Information

Prior Introductions: SB 427 of 2012, a similar bill, received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 967, received a hearing in the House Health and Government Operations committee and was subsequently withdrawn. SB 426 of 2011, another similar bill, received an unfavorable report from the Senate Finance Committee.

Cross File: HB 898 (Delegate Kach) - Health and Government Operations.

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

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ncs/ljm

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