

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1267 (Delegate Kramer, *et al.*)
Health and Government Operations

Nursing Homes and Assisted Living Facilities - Sex Offenders

This bill establishes various requirements regarding the admission and transfer of an identified registrant (*i.e.*, an individual required under the Criminal Procedure Article to register as a sex offender) by a nursing home or assisted living program. In addition, the bill prohibits a nursing home or assisted living program from knowingly employing an identified registrant.

Fiscal Summary

State Effect: The extent to which State expenditures may increase under the bill cannot be reliably estimated at this time, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful costs for small facilities that (1) admit identified registrants who are enrolled in the Medical Assistance Program (Medicaid) and (2) provide special accommodations not covered by the program.

Analysis

Bill Summary: A registrant who applies for admission to a nursing home or assisted living program must notify the home or program during the admission process – and, if feasible, before the registrant’s admission – that the registrant is a registered sex offender (in any state). In addition, within three days after obtaining a registration statement indicating that the registrant resides or habitually lives in a nursing home or assisted living program, the supervising authority is required to send a copy of the registration statement to the home or program where the registrant will reside or live. A facility may

not be liable for any action taken by the facility based on information provided under the above provisions or based on information from the State sex offender registry.

A nursing home or assisted living program must, during the admission process, check the State sex offender registry on the website of the Department of Public Safety and Correctional Services (DPSCS) to determine if the applicant is an identified registrant. A facility may decline the admission of an identified registrant. In addition, a facility must provide, to each prospective and current resident or guardian of a resident, a written notice concerning the sex offender registry and the availability of the registry on DPSCS's website. For all sex offenders in the State, a registration statement must include, if the registrant resides or habitually lives in a nursing home or assisted living program, the name of the nursing home or assisted living program.

If an identified registrant is a resident of a nursing home or assisted living program that determines that special accommodations (including a private room or private duty nursing) are necessary to monitor the resident, the cost of the accommodations must be paid for by the identified registrant or – if the identified registrant is an enrollee in Medicaid – by Medicaid. The facility must (1) notify its employees that the registrant is a resident of the facility and (2) within 90 days after the registrant's admission, provide appropriate training to direct care workers on recognizing signs of sexual abuse. If the facility determines that it is unable to manage the registrant in a safe manner (1) the facility may initiate involuntary transfer or discharge proceedings and (2) the Department of Health and Mental Hygiene (DHMH) must assist the facility in the transfer or discharge, including the immediate admittance of the identified registrant to a State-operated facility.

Current Law: Generally, an individual convicted of a sex crime or other specified crime in Maryland – including kidnapping and false imprisonment – is required to register with the State sex offender registry upon release from prison (or from court, if the individual did not receive a prison sentence). An offender who is required to register in another state is required to register upon entering Maryland. Furthermore, an offender who is not required to register in the offender's home state is still required to register in Maryland if the crime would have required registration in Maryland had it been committed in Maryland. The registry is maintained by DPSCS.

Within three days after obtaining a sex offender registration statement, the supervising authority must send a copy of the registration statement with the attached fingerprints, palm prints, and updated digital image of the registrant to the local law enforcement unit in each county where the registrant will reside or habitually live or where a registrant who is not a resident is a transient or will work or attend school.

A local law enforcement unit that receives a notice from a supervising authority must send a copy of the notice to the police department, if any, of a municipal corporation if the registrant (1) is to reside or habitually live in the municipal corporation after release; (2) escapes from a facility but resided or habitually lived in the municipal corporation before being committed to the custody of a supervising authority; or (3) is to change addresses to another place of residence within the municipal corporation.

Additional residency notification requirements include the following:

- As soon as possible, but not later than three working days after receipt of a registrant's change of residence or change in the county in which the registrant habitually lives, the local law enforcement unit must notify DPSCS of the change.
- As soon as possible, but not later than three working days after receipt of such a notice, the local law enforcement unit must give notice to DPSCS of the registrant's intent to change residence, a county in which the registrant habitually lives, vehicle or license plate information, electronic mail or Internet identifiers, or landline or cellular phone numbers.

State Expenditures: The bill requires DHMH to assist a facility in the transfer or discharge of an identified registrant, including the immediate admittance of the registrant to a State-operated facility. It is unclear whether this provision requires the automatic admittance of an individual to any State-operated facility – including a chronic hospital, a facility for the developmentally disabled, or a psychiatric facility – to which an individual would otherwise not be admitted based on regular admission criteria. Moreover, it is unclear (1) how many identified registrants will seek admission to a nursing home or assisted living program; (2) how many facilities will elect to transfer such registrants to State-operated facilities; and (3) to what extent State-operated facilities can accommodate such registrants using existing budgeted resources. Thus, any increase in State expenditures under the bill cannot be reliably estimated at this time.

DHMH advises that Medicaid reimburses only for services that are medically necessary and does not provide additional reimbursement for special accommodations such as private rooms or private duty nursing. Thus, no impact to Medicaid is expected.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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Analysis by: Jennifer A. Ellick

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