

Department of Legislative Services
 Maryland General Assembly
 2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 432

(Senator Pugh, *et al.*)

Finance

Health and Government Operations

**Department of Health and Mental Hygiene - Plan for Creation and
 Implementation of a Database of Direct Access Employees**

This bill requires the Department of Health and Mental Hygiene (DHMH) to develop a plan, with the input of stakeholders, for the creation and implementation of a direct access employee database. DHMH must submit the plan to specified committees on or before December 1, 2014.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: General fund expenditures increase by \$24,500 in FY 2015 only for DHMH to hire one part-time contractual employee to develop a plan for the creation and implementation of a database of direct access employees. Revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	24,500	0	0	0	0
Net Effect	(\$24,500)	\$0	\$0	\$0	\$0

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Adult dependent care program” means an adult day care facility, an assisted living program facility, a group home, a home health agency, a congregate housing services program, a residential service agency, an alternative living unit, a hospice facility, or other specified regulated institution. A “direct access employee” is one who, for compensation, works for an adult dependent care program and has routine direct access to dependent adults in the program.

DHMH’s plan must address:

- the technology needed and the estimated cost for the technology to establish the database;
- the procedures for how employers would input information into the database and obtain employment history from the database for potential employees;
- the procedures for maintaining the security of information input into or obtained from the database;
- the costs associated with creating and maintaining the database, including the number of employees needed to establish and maintain the database;
- which unit within DHMH would be responsible for the database;
- the type of employers that should be required to input employee information into the database and access the database to obtain employment history;
- the type of identifying information that should be included in the database;
- the expectations for employers if a prospective employer contacts the previous employer, including any potential liability for disclosure of disciplinary actions or adverse employment decisions;
- whether all employees with direct access to dependent adults should be included in the database, or whether the database should include only those employees who are not licensed or certified by a health occupations board; and
- options for implementing the database, including whether a phase-in approach for implementation should be adopted, and when employers should begin to input information into and access information from the database.

Current Law: DHMH does not currently track this information or maintain any kind of direct access employee database.

Background: As amended, SB 316 of 2012 would have required DHMH to convene a workgroup to examine issues relating to the creation of a health care facility abuser registry and to report its findings and recommendations to specified committees of the General Assembly by December 1, 2012. Although this bill did not pass, the Office of Health Care Quality (OHCQ) voluntarily convened an Abuser Registry Workgroup

comprising representatives of OHCQ, the Office of the Attorney General, law enforcement agencies, health care providers, and the advocate community.

In an initial January 2013 report, OHCQ outlined (1) existing protections for Maryland residents for identifying and protecting the public from individuals with a background of abuse or neglect; (2) the pending grant award from the U.S. Centers for Medicare and Medicaid Services to design, develop, and implement a national background check program in Maryland; and (3) considerations and challenges to establishing an abuse registry in the State, including alternative approaches to a registry.

Then, as required by Chapters 239 and 606 of 2013, the 2012 Abuser Registry Workgroup reconvened to continue its work. The workgroup has considered (1) creating a universal definition of abuse; (2) reducing instances of abuse and neglect in health care settings by educating providers of reporting obligations and by raising abuse and neglect awareness among consumers; (3) creating an employee database of direct access employees as either part of a Maryland background check program or a separate and parallel system; and (4) establishing a Maryland background check program for use as a tool to reduce abuse, neglect, and misappropriation of funds in long-term care facilities. This bill implements a database of direct access employees as considered by the workgroup.

State Expenditures: General fund expenditures increase by \$24,519 in fiscal 2015 only, which accounts for the bill's July 1, 2014 effective date. This estimate reflects the cost of hiring one part-time (50%) contractual administrator for five months to develop the required plan. It includes a salary, fringe benefits, and one-time start-up costs. There are no ongoing expenses because the plan must be submitted by December 1, 2014. The Department of Legislative Services (DLS) notes that five months is an aggressive timeline for the creation of such a complex plan, particularly since DHMH must solicit input from stakeholders. However, this estimate assumes that the plan can be completed within the bill's required timeframe.

Contractual Position	0.5
Salary and Fringe Benefits	\$20,027
Operating Expenses	<u>4,492</u>
Total FY 2015 State Expenditures	\$24,519

In addition, DHMH advises that senior staff must be diverted from other priorities to provide expertise and assist in the creation of the required database.

DLS advises that any costs associated with implementation of a direct access employee database depend on the plan developed. DLS assumes that additional legislation, likely at the 2015 session, would be necessary to establish such a database.

Additional Comments: HB 1511 of the 2014 session (department legislation) would establish a Maryland Background Check Program within DHMH, as considered by the 2012 Abuser Registry Workgroup. The bill requires individuals to submit to State and national background checks and criminal history records checks before qualifying for employment as a direct access employee with an adult dependent care provider. Further, DHMH must establish a rapback program to identify direct access employees who have committed disqualifying offenses after obtaining a favorable fitness determination.

Additional Information

Prior Introductions: None.

Cross File: HB 532 (Delegate B. Robinson, *et al.*) - Health and Government Operations.

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

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