

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 864

(Senator Klausmeier, *et al.*)

Finance and Judicial Proceedings

Education - Overdose on Public School Premises - Substance Abuse Treatment Programs

This bill requires an authorized school official to file a petition with a court if a child has overdosed on public school premises in violation of specified regulations. If it appears to the court that the child has overdosed on public school premises, the court must order the Department of Health and Mental Hygiene (DHMH) to evaluate the child to determine whether, by reason of drug abuse, the child is in need of and may benefit from inpatient or outpatient substance abuse treatment in a State certified substance abuse treatment program. The court must set and may change the conditions under which an examination is to be conducted under the bill. DHMH must ensure that each evaluation ordered is conducted in accordance with regulations adopted by the department. Based on DHMH's recommendation, the court must order the child to enter a State certified substance abuse treatment program.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: General fund expenditures for DHMH increase minimally beginning in FY 2018, to the extent the bill results in additional assessments and admissions to treatment programs. Expenditures for Medicaid (50% general funds, 50% federal funds) and the Maryland Children's Health Program (MCHP) (88% federal funds, 12% general funds) also increase minimally beginning in FY 2018, to the extent services are covered by Medicaid and MCHP. Federal matching revenues increase correspondingly.

Local Effect: The bill is not expected to materially affect the caseload of the circuit courts sitting as juvenile courts. Local school systems can designate an authorized school official

to file a petition with the court alleging a child has overdosed on public school premises with existing resources. Revenues are not affected.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: “Court” means the circuit court for a county sitting as the juvenile court. “Overdosed on public school premises” means a child who has overdosed on any drug for which the child does not have a prescription while on public school premises.

The bill specifies that a juvenile court has exclusive jurisdiction over a child who is alleged to have overdosed on public school premises.

Current Law: Under the Code of Maryland Regulations 13A.08.01.08, students are prohibited from possessing and/or using alcohol or other drugs without a prescription on school premises. The regulations do not address overdosing on school premises.

Under the Courts and Judicial Proceedings Article, a juvenile court generally has jurisdiction over (1) a child who is alleged to be delinquent or in need of supervision or who has received a citation for a violation; (2) a peace order proceeding in which the respondent is a child; and (3) proceedings arising under the Interstate Compact on Juveniles.

A petition alleging that a child is delinquent must be filed by the State’s Attorney; petitions alleging that a child is in need of supervision must be filed by an intake officer.

An intake officer receives complaints from a person or agency having knowledge of facts which may cause the person to be subject to the jurisdiction of the court. The intake officer must make an inquiry within 25 days as to whether the court has jurisdiction and whether judicial action is in the best interest of the public or the child. After such an inquiry, the intake officer may authorize the filing of a petition, propose an informal adjustment (rather than judicial action), or refuse authorization to file a petition.

No later than 25 days after receiving a complaint, the intake officer must discuss with a child who is the subject of a complaint and the child’s parent or guardian information regarding a referral for a mental health and substance abuse screening of the child. The screening must be conducted by a person who (1) has been selected by the child’s parent or guardian; (2) has been approved by the child’s health insurance carrier; and (3) is a qualified health, mental health, or substance abuse professional or their trained staff. The intake officer must document whether a screening appointment was made within 15 days

of the discussion. If it is determined, based on the screening, that the child is mentally handicapped, is seriously emotionally disturbed, or is a substance abuser, the health professional must conduct a comprehensive assessment of the child within 5 working days of the screening. The intake officer may then authorize the filing of a petition, propose an informal adjustment, or refuse to authorize the filing of a petition.

If a petition is filed, unless jurisdiction is waived, the court holds an adjudicatory hearing to determine whether the allegations within a petition are true. A disposition hearing must also be held to determine whether a child needs or requires the court's guidance, treatment, or rehabilitation and, if so, the nature of the guidance, treatment, or rehabilitation. In making a disposition on a petition, the court may:

- place the child on probation or under supervision in the child's own home or in the custody or under the guardianship of a relative or other fit person, on terms the court deems appropriate, including community detention;
- commit the child to the custody or guardianship of the Department of Juvenile Services (DJS), DHMH, or other agency on terms that the court considers appropriate, including designation of the type of facility where the child is to be accommodated; or
- order the child or the child's parents, guardian, or custodian to participate in rehabilitative services that are in the best interest of the child and the family.

At disposition, the court is prohibited from committing children who have been adjudicated delinquent for the commission of certain nonviolent offenses (including possession of less than 10 grams of marijuana or noncontrolled substances) to DJS for out-of-home placement unless specified conditions are met.

State Fiscal Effect: The Judiciary advises that it is unclear how the bill affects the current process for petitions alleging that a child is delinquent or in need of supervision and, thus, is unable to estimate the impact of the bill. However, the Department of Legislative Services advises that the bill is likely to affect a minimal number of individuals; thus, there is likely no material impact on the Judiciary or related legal departments.

Although the Maryland State Department of Education (MSDE) did not provide information on how often students overdose on public school premises, MSDE advises that, currently, if a student overdoses on public school property, school staff calls 9-1-1 for emergency medical response and treatment. Once the immediate emergency has been resolved, school personnel works with hospital personnel to coordinate substance abuse services and counseling for the student and family.

To the extent the bill results in additional drug assessments and individuals admitted to treatment programs, general fund expenditures for DHMH increase minimally beginning in fiscal 2018. Likewise, expenditures for Medicaid (50% general funds, 50% federal funds) and MCHP (88% federal funds, 12% general funds) also increase minimally, to the extent such services are covered by Medicaid and MCHP.

The bill does not specifically include DJS in the bill's procedures for a child who overdoses on school premises. Nevertheless, due to the minimal number of anticipated cases under the bill, this analysis assumes that the bill does not materially affect DJS operations or finances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Health and Mental Hygiene; Maryland State Department of Education; Department of Legislative Services

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