

**Department of Legislative Services**  
 Maryland General Assembly  
 2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 1428

(Chair, Judiciary Committee)(By Request - Departmental  
 - Office of Crime Control and Prevention)

Judiciary

Judicial Proceedings

**Criminal Procedure - Victim Services Unit - Victims' Compensation**

This departmental bill establishes a Victim Services Unit (VSU) in the Governor’s Office of Crime Control and Prevention (GOCCP) to coordinate State responsibilities concerning services to victims, including the collection of restitution and reimbursements for sexual assault forensic evidence examinations (SAFE Exams) and other eligible expenses for cases involving rape, sexual offenses, or child sexual abuse. The bill transfers related functions from the Department of Public Safety and Correctional Services (DPSCS) and the Department of Health and Mental Hygiene (DHMH) to GOCCP/VSU. By December 31 annually, GOCCP must report specified information regarding victim services to the Governor and the General Assembly.

The bill takes effect January 1, 2018.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$90,100 in FY 2018 for GOCCP to hire staff for VSU. Future year estimates reflect annualization. Federal fund revenues/expenditures increase by \$780,000 annually beginning in FY 2021 due to eligibility for federal matching funds for victim’s services. Special fund revenues/expenditures may increase beginning as early as FY 2019 due to additional restitution collections. This estimate does not include any impact related to the transfer of specified federal funds from DHMH to GOCCP, as discussed below. Otherwise, the transfer of programs and related funding does not impact net State finances.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
SF Rev./Exp.	\$0	-	-	-	-
FF Revenue	\$0	\$0	\$0	\$780,000	\$780,000
GF Expenditure	\$90,100	\$159,600	\$166,700	\$174,100	\$181,900
FF Expenditure	\$0	\$0	\$0	\$780,000	\$780,000
Net Effect	(\$90,100)	(\$159,600)	(\$166,700)	(\$174,100)	(\$181,900)

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

**Local Effect:** The bill does not directly affect local government operations or finances. This estimate does not include any impact related to the transfer of specified federal funds from DHMH to GOCCP, as discussed below.

**Small Business Effect:** GOCCP has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

### Bill Summary:

*Transfer of Functions to the Governor's Office of Crime Control and Prevention:* The bill transfers the existing oversight functions and operations relating to the Criminal Injuries Compensation Board (CICB) and the Criminal Injuries Compensation Fund (CICF) from DPSCS to GOCCP. In addition, the bill transfers the existing functions and operations relating to SAFE Exams from DHMH to VSU and requires that CICB pay for specified forensic examinations and other eligible expenses for cases involving rape, sexual offenses, and child sexual abuse.

Among other provisions relating to the transfer of functions, the bill specifies that:

- all appropriations, including State and federal funds, held by the agencies and units of the State to carry out the functions, programs, and services transferred under the bill are transferred to GOCCP on January 1, 2018, provided that all payments for the SAFE program must be dedicated to the SAFE program;
- Preventive Health and Health Services (PHHS) Block Grant funds must be allocated to sexual assault crisis programs for direct services for survivors of sexual assault;
- on January 1, 2018, all of the functions, powers, duties, books and records (including electronic records), real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of the agencies, units, and entities transferred under the bill are transferred to GOCCP;
- all employees who are transferred to VSU under the bill are transferred without diminution of their rights, benefits, employment, or retirement status, and new hires in the same or similar classifications as transferred positions must receive the same rights and benefits; and

- all employees who are transferred to VSU must be allowed to remain at the location at which they were employed on December 31, 2017.

*Victim Services Unit:* The Director of VSU is required to be appointed by and to serve at the pleasure of the Executive Director of GOCCP and must receive a salary as provided in the State budget. The director must regularly consult with, collaborate with, and consider the recommendations of the federally recognized State antisexual assault coalitions regarding sexual assault crisis programs and policies, practices, and procedures that impact victims of sexual assault, including administration of the program for SAFE Exams.

VSU consists of:

- CICB;
- the program for SAFE Exams;
- a restitution section; and
- any other program that administers victim services under GOCCP that the executive director determines benefits from inclusion under VSU.

VSU must coordinate with the Judiciary, DPSCS, the Department of Juvenile Services, the Central Collection Unit (CCU), State's Attorney's offices, and local correctional facilities to (1) collect data; (2) develop best practices, using data and other evidence to the extent available, for restitution collection; (3) coordinate and improve efforts of State and local entities regarding restitution; (4) ensure the interoperability of justice system databases; (5) require that each of the databases has a data field to indicate that there are outstanding restitution orders; and (6) coordinate efforts to improve restitution collection. In addition, VSU must:

- monitor and provide guidance to the Secretary of Public Safety and Correctional Services on the adoption of regulations establishing minimum mandatory standards for State and local correctional facilities regarding victim notification, restitution, and administrative record keeping;
- encourage the use of earnings withholding orders to collect restitution;
- coordinate with CCU to improve restitution collection;
- coordinate with the Division of Parole and Probation (DPP) to modernize and improve collections and collaborate on communicating with parole and probation agents on their role with restitution collection;
- coordinate with DPP and CCU on ways to expedite the referral of cases to CCU;
- develop programs to be presented to the Maryland State's Attorneys' Association to emphasize statutory obligations regarding restitution;
- promote notification to victims; and

- examine the existing remedies available to enforce restitution orders to determine whether the remedies are being effectively used and make recommendations regarding the need for additional remedies.

VSU may adopt regulations to carry out its duties. VSU must adopt regulations, after consultation with DHMH, to fulfill the bill's provisions transferred from DHMH to VSU under the bill.

The Justice Reinvestment Oversight Board must (1) monitor the formation of VSU and provide oversight and guidance to VSU; (2) ensure that data systems developed and used by VSU enhance victim services and are user friendly for persons responsible for the data systems; (3) ensure that VSU adopts appropriate outcome measures, reviews outcomes, and recommends any appropriate actions based on the outcomes; (4) assess whether the current system of collecting restitution should remain within the existing State and local entities; and (5) report to the Governor and the General Assembly by December 31, 2018, on any recommendations to improve the process of restitution.

By December 31 annually, GOCCP must provide a report to the Governor and the General Assembly that includes an accounting of all grants related to services for victims of crime that are administered by GOCCP, as well as a description of efforts to streamline reporting and data collection by grantees and subgrantees serving victims of crime and a discussion of whether any grant administration and reporting requirements that exceed federal requirements are efficient and necessary for provision of victim services.

### **Current Law:**

*Criminal Injuries Compensation Board:* CICB, in DPSCS, provides financial assistance for innocent victims of crime. The board may pay out compensation for medical expenses and loss of earnings to victims who suffer physical or psychological injury, but only if the injury is a direct result of a criminal or delinquent offense. In cases of homicide, the board may assist with funeral expenses and loss of support on the part of the victim's dependents. Funding for the assistance is generated by CICF from fees assessed by circuit and District courts. CICF is also supplemented by federal funds.

*Sexual Assault Forensic Examination:* Under provisions set forth in the Criminal Procedure Article relating to assistance for victims of sexual assault offenses, the nearest facility to which a victim of sexual assault may be taken must be designated by DHMH in cooperation with (1) the Medical and Chirurgical Faculty of the State of Maryland and (2) the State's Attorney in the subdivision where the sexual assault occurred. A police officer, sheriff, or deputy sheriff who receives a report of an alleged sexual assault must offer the alleged victim the opportunity to be taken immediately to the nearest facility.

That offer must be made without regard for the place of the alleged sexual assault or where it is reported.

A victim of an alleged rape, sexual offense, or child sexual abuse may receive (1) a physical examination to gather information and evidence relating to the alleged crime; (2) emergency hospital treatment and follow-up medical testing for up to 90 days after the initial physical examination; and (3) up to five hours professional time to gather information and evidence. Applicable health care services must be given without charge to a victim of sexual abuse. The physician or hospital providing the services is entitled to be paid by DHMH.

A physician who examines a victim of alleged child sexual abuse under applicable provisions is immune from any civil liability that may result from the failure of the physician to obtain consent from the child's parent, guardian, or custodian for the examination or treatment of the child. The immunity extends to any hospital with which the physician is affiliated or to which the child is brought and any individual working under the control or supervision of the hospital.

### **Background:**

*Governor's Office of Crime Control and Prevention Report on Restitution Recommends the Creation of a Victims' Services Unit*

Chapter 515 of 2016 (the Justice Reinvestment Act) required GOCCP to study restitution and make recommendations concerning the restitution process, including determining which State unit should assume the duties regarding collection of restitution. In the December 2016 [\*Report on Restitution Study\*](#), GOCCP recommended that a new unit called the Victims' Services Unit be formed within GOCCP to collect data, develop best practices, and coordinate with State and local entities regarding restitution. This bill is a direct result of that recommendation.

*Federal Victims of Crime Act Funds and Preventive Health and Health Services Block Grant Funds*

The purpose of the federal Victims of Crime Act (VOCA) program is to improve the treatment of victims of crime by providing victims with the assistance and services necessary to aid their restoration after a violent criminal act, and to support and aid victims as they move through the criminal justice process. Victim assistance includes services such as crisis intervention, counseling, emergency transportation to court, temporary housing, and criminal justice support and advocacy. In 2016, Maryland received approximately \$46.2 million in VOCA grants. All VOCA grants are allocated through GOCCP.

PHHS Block Grant funds are provided to states to address unique public health needs in innovative and locally defined ways. In federal fiscal 2017, Maryland received \$2.9 million in PHHS Block Grant funds (*see Exhibit 1*). The funds are being used to combat youth obesity, coronary heart disease, and diabetes, as well as to offer comprehensive epidemiology services and provide reimbursement for SAFE Exams.

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**Exhibit 1**  
**Preventive Health and Health Services Block Grant Funds**  
**Federal Fiscal 2017**

Comprehensive Epidemiology Services	\$455,320
Youth Obesity	370,295
Coronary Heart Disease Deaths	910,000
Adult Healthy Weight	118,026
Diabetes Deaths	469,000
SAFE Exams (Sexual Offense)	138,812
Other Programs/Admin. Costs	458,625
<b>Total</b>	<b>\$2,920,078</b>

SAFE: sexual assault forensic evidence

Source: Department of Health and Mental Hygiene

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**State Fiscal Effect:**

*Overview*

General fund expenditures increase by \$90,106 in fiscal 2018 for GOCCP to hire two full-time employees to collect data on restitution and to coordinate restitution efforts and victim services in VSU. Future year estimates reflect annualization and ongoing costs. The consolidation of entities serving victims in the State results in a federal fund revenue increase of \$780,000 annually beginning in fiscal 2021; federal fund expenditures increase correspondingly. Special fund revenues from restitution collections may also increase, as discussed below, providing additional funding for victims. Otherwise, the transfer of functions from DPSCS and DHMH to GOCCP has no net effect on State finances, as discussed below. This estimate does not account for any impact on State finances resulting from the transfer of the PHHS Block Grant funds, except for the funds allocated for SAFE Exams, as discussed below.

*Transfer of Functions and Related Funding*

The bill specifies that all appropriations, including State and federal funds, held by the agencies and units of the State to carry out the functions, programs, and services transferred under the bill are transferred to GOCCP on January 1, 2018. For fiscal 2019, funding for the services and programs that are transferred to GOCCP must be as provided in the fiscal 2019 State budget. Under the bill, VOCA and PHHS Block Grant funds directed to the State through other State agencies must be transferred to GOCCP on January 1, 2018.

Operating costs for CICB are covered by special fund revenues available in CICF and federal fund contributions, and do not involve any general fund appropriations. Specifically, the fiscal 2018 budget assumes special fund revenues of \$3.3 million, federal fund revenues of \$1.9 million, and reimbursable fund revenues of \$72,065 for CICB. The fiscal 2018 budget for CICB is as follows:

Full-time Positions	11
Contractual Positions	5.29
Salaries and Fringe Benefits	\$834,336
Technical and Special Fees	163,808
Fixed Charges (Rent)	38,627
Grants	4,150,000
Other Operating Expenses	<u>57,285</u>
<b>Total</b>	<b>\$5,244,056</b>

The fiscal 2018 budget includes two positions and \$1.5 million in general funds for the evidence collection program within the Prevention and Health Promotion Administration in DHMH. Approximately \$1.3 million of that amount is allocated for medical care costs, including costs for SAFE Exams. The fiscal 2018 budget also includes \$138,812 in federal PHHS Block Grant funds for SAFE Exams.

Thus, \$2.6 million in special/federal/reimbursable funds, 11 regular positions, and 5.29 contractual positions are transferred from DPSCS to GOCCP and \$728,652 in general/federal funds and 2 positions are transferred from DHMH to GOCCP in fiscal 2018 under the bill; this reflects the bill's January 1, 2018 effective date.

Although the bill states that PHHS Block Grant funds must be allocated to sexual assault crisis programs for direct services for survivors of sexual assault, more than 95% (approximately \$2.8 million) of the block grant funds allocated to the State is used for purposes other than sexual assault crisis programs (as shown in Exhibit 1). It is unclear whether the intent of the bill is to eliminate the other health-related programs funded by the PHHS Block Grant funds and increase funding for sexual assault crisis programs by an additional \$2.8 million, or to transfer the administration of these other programs from

DHMH to GOCCP; the bill does not transfer the employees involved in the administration of these other programs from DHMH to GOCCP. Accordingly, this estimate does not account for any impact on State finances resulting from the transfer of the block grant funds, except for the \$138,812 allocated for SAFE Exams.

*New Costs for the Governor’s Office of Crime Control and Prevention for a Victim Services Unit*

General fund expenditures increase by \$90,106 in fiscal 2018 for GOCCP, which accounts for the bill’s January 1, 2018 effective. This estimate reflects the cost of hiring two full-time employees for VSU to collect data on restitution and to coordinate restitution efforts. It includes salaries, fringe benefits, one-time start-up costs and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$75,201
Operating Expenses (including rent)	<u>14,905</u>
<b>Total FY 2018 State Expenditures</b>	<b>\$90,106</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

All employees who are transferred to VSU must be allowed to remain at the location at which they are employed on December 31, 2017. This estimate assumes that all employees choose not to relocate; therefore, no moving expenses have been included in the estimate.

*New Federal Fund Revenues Anticipated*

The consolidation of entities serving victims in the State results in a federal fund revenue increase of \$780,000 annually beginning in fiscal 2021. If payments for SAFE Exams are made through CICB rather than DHMH, the State becomes eligible for 60% matching federal funds to CICF. Based on current payments through the program, the State is likely eligible for matching funds beginning in fiscal 2021 in the amount of \$780,000 annually. Federal fund expenditures increase correspondingly.

*Potential Additional Special Fund Revenues from Restitution Efforts*

It is likely that special fund revenues also increase from increased restitution collection due to the consolidation of efforts and services. Any such increase cannot be predicted, however. Although the timing of any additional special fund revenues is unknown, this analysis assumes that additional special fund revenues could accrue as early as fiscal 2019. Special fund expenditures increase correspondingly to provide funding to victims.



## *Judiciary*

Although the Judiciary advises that the bill results in significant operational and fiscal impacts for the Judiciary, DLS disagrees. While revisions to forms are necessary and the standard operating procedures for clerks, judges, and other departments within the Judiciary require changes, DLS advises that the changes can likely be handled with only a minimal increase in general fund expenditures.

**Local Fiscal Effect:** Local health departments currently receive funding from PHHS Block Grant funds for various programs, such as school and childcare wellness, youth obesity, and diabetes prevention. As noted above, the bill states that PHHS Block Grant funds must be allocated to sexual assault crisis programs for direct services for survivors of sexual assault. As discussed above, however, it is unclear whether the intent of the bill is to eliminate the various health-related programs funded by the block grant funds or to transfer administration of these programs from DHMH to GOCCP. Accordingly, this estimate does not account for any impact on local health departments resulting from the transfer of the block grant funds from DHMH to GOCCP.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore City; Caroline and Montgomery counties; City of Bowie; Governor's Office of Crime Control and Prevention; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Budget and Management; Department of Health and Mental Hygiene; Department of Juvenile Services; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2017  
mm/kdm Third Reader - April 6, 2017  
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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Criminal Procedure - Victim Services Unit - Victim Compensation

BILL NUMBER: HB 1428

PREPARED BY: Don Hogan

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

x WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

It is the expectation that the new Victim Services Unit will be able to improve restitution collections and that would be beneficial to businesses that are victims of crimes. At this time, however, it is impossible to quantify what the impact will be.