

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 302
Finance

(Senators Benson and Guzzone)

Mental Health - Electroconvulsive Therapy for Minors - Prohibition

This bill prohibits the use of “electroconvulsive therapy” (ECT) on minors. A violation is a felony, and a violator is subject to maximum penalties of imprisonment for two years and/or a fine of \$100,000. An individual who received ECT in violation of the bill’s prohibition may recover civil damages from the person who performed the therapy and the facility where the therapy was performed.

Fiscal Summary

State Effect: The bill likely does not materially affect State finances or operations.

Local Effect: The bill likely does not materially affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: “Electroconvulsive therapy” means the application of an electric current to an individual’s brain for the purpose of treating a mental disorder.

Current Law/Background: ECT, first performed in 1938, is one of the oldest medical treatments still in regular use according to the American Psychiatric Association (APA). APA issued an official position statement in 2015 that “ECT is a safe and effective evidence-based medical treatment... endorsed by the APA when administered by properly qualified psychiatrists for appropriately selected patients.”

APA has additionally set guidelines regarding informed consent for ECT. Prior to ECT treatment, informed consent for ECT must be obtained from either the patient (if age 18 or older) or from the parents or legal guardian (if the patient is younger than age 18), except when it has been determined that the patient lacks capacity to consent.

State regulation of ECT varies widely. According to the *American Journal of Psychiatry Residents' Journal*, as of March 2018, 32 states, including Maryland and the District of Columbia, had no specific statute regarding ECT. At least 3 states prohibit the use of ECT on individuals younger than a specified age. Colorado and Texas prohibit the use of ECT for persons younger than age 16, while Tennessee prohibits its use for persons younger than age 18.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland Department of Health; Department of Public Safety and Correctional Services; American Psychiatric Association; *The Journal of the American Academy of Psychiatry and the Law*; *American Journal of Psychiatry Residents' Journal*; Department of Legislative Services

Fiscal Note History: First Reader - February 18, 2019
mm/jc

Analysis by: Amber R. Gundlach

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