

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 44

(Senator Lam)

Judicial Proceedings

Public Buildings - Changing Facilities for Adult Diapers

This bill generally requires a diaper-changing facility suitable for changing the diaper of *both a child and an adult* to be installed in at least one public restroom within a public building constructed on or after October 1, 2020. The requirement also applies to a public restroom (in an existing public building) that is built or substantially renovated on or after that date. Exceptions are established. Specified State and local governmental entities must report the location of all diaper-changing facilities to the Department of General Services (DGS), and DGS must maintain a list on its website of all the reported locations.

Fiscal Summary

State Effect: No direct effect on total expenditures under the State's capital budget or Transportation Trust Fund, which are determined annually by the Governor and General Assembly through the budget process. However, the bill potentially increases the cost of each new and substantially renovated building by between \$5,000 and \$150,000 to accommodate the installation of at least one adult diaper-changing facility. Thus, fewer capital projects may be funded in any given year. DGS can likely handle the bill's recordkeeping requirements with existing budgeted resources. No effect on revenues.

Local Effect: The cost of each local capital project may increase by between \$5,000 and \$150,000 to accommodate installation of at least one diaper-changing facility. Thus, fewer local capital projects may be funded with available capital funding. No effect on local revenues. **The bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: A “diaper-changing facility” is defined as a table or other device suitable for changing a diaper. “Substantial renovation” means a construction or renovation project with an estimated cost of at least \$30,000. A “public restroom” is a sanitary facility available to the general public that contains at least one toilet or urinal.

A “public building” is any building, structure, or improved area that is owned by the State or a local government or constructed for lease by the State or local government. It includes (1) a public mass transit accommodation such as a terminal or station that is supported by public funds and (2) an improvement of a public area used for gathering or amusement, including a public park or recreation center. It does not include schools.

If restrooms in a public building affected by the bill are divided by gender, a diaper-changing facility must be installed in at least one men’s public restroom and one women’s public restroom.

If a building inspector who has jurisdiction over a public building determines that installation of a diaper-changing facility suitable for changing the diaper of an adult is not practicable or would result in a failure to comply with applicable building standards governing access by individuals with disabilities, the public building must install a facility suitable for changing the diaper of a child younger than age four, subject to existing exceptions.

Current Law: Chapter 523 of 2019 is virtually identical to this bill, *except that it requires the installation of diaper-changing facilities only for children younger than age four.* Under Chapter 523, a diaper-changing facility for children younger than age four must be installed in at least one public restroom within a public building constructed on or after October 1, 2019. The requirement also applies to a public restroom (in an existing public building) that is built or substantially renovated on or after October 1, 2019. The Board of Public Works must develop standards for public buildings. DGS, the University System of Maryland (USM), and the Maryland Department of Transportation (MDOT) are responsible for enforcing the diaper-changing facility requirement in buildings under their respective control if any State capital nonschool funds are used or if construction is on State-owned land. Local governments must enforce the requirement if construction is not on State-owned land, local funds are used, and no State funds are used (except for school construction).

The requirement for a diaper-changing facility for young children in Chapter 523 does not apply if a building inspector who has jurisdiction over a public building determines that installation of a diaper-changing facility is not practicable or would result in a failure to

comply with applicable building standards governing access by individuals with disabilities. That exception remains in place under this bill.

Chapter 523 does not include a requirement for DGS to maintain a list of diaper-changing facilities in public buildings.

Background: According to the Maryland Department of Disabilities (DoD), there are no federal requirements for adult diaper-changing facilities in public buildings, nor are there federal standards for the design and installation of adult diaper-changing facilities.

Commercially available diaper-changing facilities for adults are generally larger versions of diaper-changing facilities for young children, but they can vary tremendously in price depending on their features. Adult versions are roughly five feet long and two to three feet wide and support weight up to 400 pounds. Less expensive versions resemble the children's version in that they are wall mounted with hinges that allow them to be stored vertically when not in use. More expensive versions are floor mounted and include motors that allow the changing table to be raised and lowered electronically, which can be an important feature for some elderly individuals or individuals with physical disabilities. Prices per unit range from \$2,000 to \$3,000 for the wall-mounted units, and \$6,000 to \$8,000 for the motorized units.

DGS constructs and manages most State-owned buildings, except for those owned by MDOT, USM, Morgan State University, and St. Mary's College of Maryland.

In December 2019, DoD completed a study of the feasibility of installing adult diaper-changing facilities in public buildings. For DGS-managed buildings, the study found variation in their capacity to accommodate adult diaper-changing facilities within existing restroom spaces. Some could likely accommodate them, while others would require expansion. MDOT buildings vary both in their accessibility to the public as well as the feasibility of accommodating adult diaper-changing facilities. For instance:

- the restrooms in the MDOT Headquarters building do not have adequate space and would require upgrades;
- the Maryland Port Administration's buildings generally are not accessible to the public;
- Thurgood Marshall Baltimore/Washington International Airport already has adult diaper-changing facilities in several of its terminals; and
- the Motor Vehicle Administration found that none of the restrooms in its public buildings could accommodate adult diaper-changing facilities.

State/Local Expenditures: The bill does not require retrofitting existing restrooms in public buildings with adult diaper-changing facilities, unless the restrooms or the buildings in which they are located are undergoing substantial renovations (of \$30,000 or more, as defined by the bill). Nor does the bill provide specifications for the types of facilities to be included in new or renovated buildings, and there are no federal standards on which to rely. This means that the cost of installing facilities in new and substantially renovated public buildings can vary tremendously depending on the type of facility installed and the dimensions of the space available. Adult diaper-changing facilities are suitable for changing the diapers of small children as well, so their installation complies with the requirements of Chapter 523.

Based on information provided by DGS, DoD, MDOT, and various local governments, the cost of installing a single adult diaper-changing facility can vary from about \$5,000 (the cost of purchasing and installing one of the lower-cost models) to about \$150,000 if the available space is not suitable and must be redesigned and/or expanded to accommodate the facility. The latter cost includes architectural and engineering plans, upgrading walls to sustain a weight of 400 pounds, possible electrical upgrades to support the electrical motors of more expensive models, and expanding the available square footage to allow proper maneuvering around the facility. Costs are greater for public buildings with restrooms divided by gender, which must have a facility installed in at least one men's public restroom and one women's public restroom. However, in some cases, the location of plumbing, electrical, and other structural design elements of the building may make installation impractical, in which case the bill provides an exemption.

For State buildings, it is assumed that capital funds are used to install facilities in new and redesigned buildings. As the capital budget is a fixed amount each year based on the capital budget process, any increase in the cost of individual capital projects may result in fewer projects being funded in a given year, depending on the cost to install the adult diaper-changing facilities. In some cases, the cost of installing the facilities may be absorbed within the overall cost of construction, but in other cases, they may significantly increase the cost of construction or renovation. The same is true for local public buildings, which are also generally constructed with local capital funds.

Additional Comments: New public buildings for which construction is scheduled to begin on or after October 1, 2020, but for which architectural and engineering design has already been completed likely do not qualify for the exemption in the bill. Redesign could be required for such buildings.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 10 (Delegate Ebersole) - Health and Government Operations.

Information Source(s): Baltimore, Harford, and Queen Anne's counties; City of Bowie; University System of Maryland; Maryland Department of Disabilities; Department of General Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Grainger; PatientSafetyUSA.com; Department of Legislative Services

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