

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 699 (Delegate M. Morgan, *et al.*)
Health and Government Operations

State and Local Government - Proof of Vaccination for Employees and
Applicants for Employment - Prohibition (Vaccination by Choice Act)

This bill prohibits units in the Executive, Judicial, or Legislative branches of State government (including those with independent personnel systems) and local government entities from requiring an employee or an applicant for employment to provide proof of vaccination against COVID-19 as a condition for employment. The bill's prohibition applies to counties, municipalities, bicounty agencies, local boards of education, public corporations, special taxing districts, and any other political subdivisions in the State.

Fiscal Summary

State Effect: Federal fund revenues and expenditures are potentially at risk, as discussed below. State agencies, including Baltimore City Community College and public four-year universities, can revise policies relating to COVID-19 vaccination with existing resources.

Local Effect: Federal fund revenues and expenditures are potentially at risk, as discussed below. Local entities, including local community colleges and local school systems, can revise COVID-19 vaccination policies with existing resources.

Small Business Effect: None.

Analysis

Current Law: Several state and local governments have imposed COVID-19 vaccination requirements on specific employees, including Pennsylvania and Virginia. Maryland imposed a vaccine requirement, effective September 1, 2021, for all staff of residential

facilities operated by the Maryland Department of Health (MDH) or a local health department, State correctional facilities, State facilities operated by the Department of Juvenile Services, Charlotte Hall Veterans Home, other State congregate living facilities, and all nursing homes and hospitals. In addition, State colleges and universities required all students, faculty, and staff to be vaccinated to be on campus, but those requirements have been lifted – except for clinical staff.

In November 2021, the federal Centers for Medicare and Medicaid Services issued an interim final rule with comment period establishing COVID-19 vaccination requirements for staff at specified Medicare- and Medicaid-certified providers and suppliers. Noncompliant providers and suppliers are potentially subject to enforcement remedies available under federal law, including loss of federal funding. The [rule was revised](#) in October 2022, but the vaccine requirements and penalties for noncompliance continue to apply.

State/Local Fiscal Effect: As discussed above, the bill prohibits, without exception, State and local government employers from requiring an employee or an applicant for employment to provide proof of vaccination against COVID-19 as a condition for employment. The Department of Budget and Management advises that most State agencies do not require employees to be vaccinated against COVID-19; however, based on federal vaccination requirements for staff at Medicare- and Medicaid-certified providers and suppliers, certain employees of MDH at medical facilities have been required to be vaccinated against COVID-19.

The Department of Legislative Services advises that federal funding to State and local health care facilities is potentially at risk to the extent that the bill results in noncompliance with federal vaccination requirements for Medicare- and Medicaid-certified providers. Thus, federal fund revenues and expenditures for MDH and local health departments potentially decrease as early as fiscal 2024. Any such impact, however, cannot be reliably predicted at this time.

Otherwise, it is generally assumed that the bill’s prohibition does not have a direct effect on State or local government finances.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 799 of 2022.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; North East Maryland Waste Disposal Authority; University System of Maryland; Morgan State University; Maryland-National Capital Park and Planning Commission; Baltimore City; Montgomery, Washington, and Worcester counties; Anne Arundel County Public Schools; Maryland Municipal League; Department of Legislative Services

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