

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 963

(Delegate A. Kelly, *et al.*)

Health and Government Operations

Finance

Hospitals - Protocol for Sexual Assault Medical Forensic Examinations and
Planning Committee

This bill requires each hospital that provides emergency medical services to have a protocol to provide timely access to a sexual assault medical forensic examination to a victim of an alleged rape or sexual offense who arrives at the hospital for treatment; the examination may be by a forensic nurse examiner or a physician. The protocol must be in place by July 1, 2014. The bill also establishes the Planning Committee to Implement Improved Access to Sexual Assault Medical Forensic Examinations in Maryland.

The bill takes effect June 1, 2014. Provisions related to the planning committee terminate June 30, 2016.

Fiscal Summary

State Effect: Department of Health and Mental Hygiene (DHMH) federal and general fund expenditures increase due to additional reimbursements through the Sexual Assault Reimbursement Unit (SARU), to the extent that sexual assault victims can receive sexual assault medical forensic examinations when they otherwise would not have been able to, as a result of the bill. Revenues are not affected as federal funds are received as a block grant. Staffing duties and reimbursement for committee members can be handled with existing resources.

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

Small Business Effect: None.

Analysis

Bill Summary: The Planning Committee to Implement Improved Access to Sexual Assault Medical Forensic Examinations in Maryland comprises 14 members and is staffed by DHMH and the Maryland Institute for Emergency Medical Services Systems. A member of the planning committee may not receive compensation but is entitled to reimbursement for travel expenses. The planning committee must:

- review the protocols that certain hospitals are required to have under the bill's provisions;
- examine the barriers to providing care for individuals seeking a sexual assault medical forensic examination;
- study reimbursement issues for providing care for individuals seeking a sexual assault medical forensic examination;
- examine the protocols of emergency medical service providers and local law enforcement agencies to direct sexual assault victims to a hospital with the capability to provide an examination;
- determine the best practices on how to educate the community on where to access sexual assault medical forensic examination services;
- study and make recommendations about the optimal caseload level to maintain a high level of quality and competency among sexual assault forensic examination practitioners;
- consider geographic differences in the State as the differences relate to examination services;
- consider hospital reporting requirements regarding the number of victims who present and the actions taken;
- review practices in other states that increase the availability of examinations;
- develop and recommend protocols to enhance protections for sexual assault victims' rights and privacy;
- receive public testimony from stakeholders; and
- adopt recommendations that are consistent with the State's all-payer model contract approved by the federal Center for Medicare and Medicaid Innovation.

By December 1, 2015, the planning committee must submit a report of its findings and recommendations to the Governor and specified legislative committees, including any legislation required to implement the recommendations.

Current Law: 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. The nearest facility must be designated by DHMH, in

cooperation with the Medical and Chirurgical Faculty of the State of Maryland and the State's Attorney in the subdivision where the sexual assault occurred. Applicable health care services must be given without charge to a victim of sexual abuse.

If a physician or a hospital provides a specified physical exam or emergency hospital treatment and follow-up medical testing to a victim of an alleged rape or sexual offense or a victim of alleged child sexual abuse, or an initial assessment of a victim of alleged child sexual abuse, the services must be provided without charge to the individual. The physician or hospital is entitled to be paid by DHMH for the cost of the services.

Background: The State Board of Nursing reports that there are currently 156 nurses certified to do examinations in the State; 91 of whom are certified to do only adult examinations, 7 are certified to do only pediatric examinations, and 58 are certified to do either examination. Certification to perform examinations in the State requires a minimum of 40 hours of training in a variety of subjects including evidentiary forensics, the criminal trial and testimony process, the role and responsibilities of the police related to sexual assault, vaginal speculum examinations, and the appropriate treatment and assistance of sexual assault victims. The Maryland Coalition Against Sexual Assault (MCASA) organizes and presents some of the trainings; MCASA advises that conducting a training costs approximately \$8,500 and has a capacity of about 10 nurses.

DHMH advises that SARU in its Prevention and Health Promotion Administration reimburses hospitals for services rendered to victims of alleged rape and sexual assault. SARU funding sources are a combination of federal (10%) and general (90%) funds, and SARU is the payor of first resort for all hospitals that provide forensic examinations. DHMH reports that, in fiscal 2011, the average reimbursement per claim through SARU was \$192 for a professional, \$720 for a hospital, and \$431 for all claims.

The Maryland Hospital Association (MHA) advises that emergency responders are aware of which hospitals have the capability to perform sexual assault medical forensic examinations, and the standard practice in instances of sexual assault is to transport possible sexual assault victims to these hospitals. MHA further advises that, generally, nurses are discouraged from traveling to other hospitals to do examinations for two main reasons. First, SARU does not reimburse for examinations that an examiner may perform unless it is done at the examiner's hospital. Second, MHA notes there are liability concerns for examiners that travel to other hospitals to perform examinations. However, in cases of emergency, such as when a victim is taken to a hospital without an examiner and cannot be moved due to severity of injuries, examiners may travel to perform examinations at other hospitals.

The U.S. Department of Justice (DOJ) released a new version of the national protocol for sexual assault medical forensic examinations (SAFE Protocol) in April 2013 to offer guidance to jurisdictions in creating their own protocols. The goal of a SAFE program is to minimize patient trauma, promote healing, and increase the likelihood that collected evidence will aid in criminal case investigation. DOJ reports that the SAFE Protocol is based on the latest scientific evidence and provides recommendations to standardize the quality of care for sexual assault victims throughout the country. DOJ reports that certified nurses who perform these exams significantly increase evidence collection and investigation in sexual assault cases while performing examinations in a sensitive and dignified way to reduce trauma. DOJ estimates that 1 in 5 women and 1 in 71 men have been raped in their lifetimes, and that nearly 1.3 million women in the United States are raped every year. DHMH reports that, in 2010, 1,228 forcible rapes were reported in Maryland, accounting for 4% of violent crime in the State.

State Fiscal Effect: DHMH federal and general fund expenditures increase to the extent that sexual assault victims are able to receive sexual assault medical forensic examinations in a hospital that retains a certified nurse examiner as a result of the bill; however, this impact cannot be reliably estimated at this time. *For illustrative purposes*, if 20 additional people obtain an examination when they otherwise would not have as a result of the bill, using DHMH's average for hospital reimbursements through SARU, expenditures for reimbursement increase by approximately \$14,400.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, U.S. Department of Justice, Maryland Hospital Association, Maryland Coalition Against Sexual Assault, Department of Legislative Services

Fiscal Note History: First Reader - February 27, 2014
mc/ljm Revised - House Third Reader - March 28, 2014

Analysis by: Richard L. Duncan

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