

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 849

(Senator Kelley, *et al.*)

Judicial Proceedings

Task Force to Study the Establishment of Health Courts

This bill establishes the Task Force to Study the Establishment of Health Courts. The Governor must designate the chair of the task force, which is to be staffed by the Administrative Office of the Courts (AOC). By December 31, 2016, the task force must report its findings and recommendations to the Governor and the General Assembly.

The bill takes effect June 1, 2016, and terminates June 30, 2017.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for AOC are assumed to be minimal and absorbable within existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The task force must study the adequacy and cost of State laws and policies relating to the litigation of medical malpractice cases, including an examination of the efficiency of the State court system and whether justice would be better served by assigning judges with medical liability expertise to hear those cases. The task force must also make recommendations regarding the establishment of health courts to hear medical malpractice cases and the feasibility of assigning a medical malpractice case to a single judge throughout the litigation process.

A member of the task force may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Current Law:

Medical Malpractice

Except for a claim seeking damages within the limit of the District Court's concurrent civil jurisdiction (\$30,000 or less), a claim for medical injury against a health care provider is required to be filed with the Director of the Health Care Alternative Dispute Resolution Office. Claims may be decided through the arbitration process, as specified in statute. A party may reject an award or the assessment of costs under an award for any reason, and file an appeal with the circuit court. The parties may also mutually or unilaterally waive arbitration and proceed to circuit courts for trial, as specified in statutory provisions.

Specialized Courts

There is no designated health court established in State law. However, the Judiciary does make use of various case management strategies for specific types of cases. For example, pursuant to Maryland Rule 16-205, subject to the availability of fiscal and human resources, a program approved by the Chief Judge of the Court of Appeals must be established in the circuit courts to handle business and technology matters in a coordinated, efficient, and responsive manner and to afford convenient access to lawyers and litigants in business and technology matters. One element of the program is to assign such cases to judges who are specially trained in business and technology. Each action assigned to the program must be assigned to a specific program judge, who must hear all proceedings until the matter is concluded, except in instances in which it is necessary for another judge to hear a particular pretrial matter in order to prevent undue delay, prejudice, or injustice.

The Judiciary has also established a number of problem-solving courts throughout the State. Drug courts, mental health courts, and truancy reduction courts incorporate unique techniques in the way courts handle individuals who have a high potential for recidivism. These problem-solving courts work closely with prosecutors, public defenders, probation officers, social workers, and other entities to develop a strategy to increase the likelihood that court-ordered individuals will enter and complete treatment programs.

Additional Information

Prior Introductions: SB 188 of 2015 received an unfavorable report from the Senate Judicial Proceedings Committee. Its cross file, HB 402, received an unfavorable report from the House Judiciary Committee.

Cross File: HB 814 (Delegate Rosenberg, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Health Care Alternative Dispute Resolution Office, Department of Legislative Services

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