

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 74

(Senator Washington, *et al.*)

Judicial Proceedings

Judiciary

Maryland Police Accountability Act of 2021 - Employee Assistance Programs
 and Early Intervention Programs

This bill requires each law enforcement agency to (1) establish a specified early intervention system; (2) provide access to an “employee assistance program” for all police officers that the law enforcement agency employs; and (3) develop a policy to provide access to the required services at no cost to a police officer. The bill establishes requirements for the employee assistance program and for law enforcement agencies.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$104,300 in FY 2022; future years reflect annualization. Minimal increase in State expenditures (multiple fund types) for other State law enforcement agencies, as discussed below. Revenues are not affected.

(in dollars)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	104,300	108,900	110,100	111,800	113,500
GF/SF Exp.	-	-	-	-	-
Net Effect	(\$104,300)	(\$108,900)	(\$110,100)	(\$111,800)	(\$113,500)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Minimal increase in expenditures for some local governments to the extent that existing employee assistance programs must be modified to meet the bill’s requirements. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary:

Early Intervention System

The bill repeals a provision that requires each law enforcement agency to establish a confidential and nonpunitive early intervention policy for counseling officers who receive three or more citizen complaints within a 12-month period. Instead, each law enforcement agency must establish an early intervention system to identify police officers who are at risk of engaging in the use of excessive force and to provide those officers with training, behavioral interventions, reassignments, or other appropriate responses to reduce the risk of the use of excessive force. The system may not prevent the investigation of or imposition of discipline for any particular complaint.

Employee Assistance Program

The employee assistance program must provide police officers access to confidential mental health services, including counseling services, crisis counseling, stress management counseling, resiliency sessions, and peer support services for police officers. The employee assistance program also must include a component designed to protect the mental health of police officers during periods of public demonstrations and unrest.

In addition to the early intervention system and as part of the required employee assistance program, before a police officer returns to full duty, a law enforcement agency must provide to the police officer (1) a voluntary mental health consultation and voluntary counseling services if the police officer is involved in an incident involving an accident resulting in a fatality and (2) a mandatory mental health consultation and voluntary counseling services if the police officer is involved in an incident involving a serious injury to the police officer, an officer-involved shooting, or any use of force resulting in a fatality or serious injury. The mental health consultation and counseling service provided pursuant to these provisions must be confidential.

“Employee assistance program” means a work-based program offered to all police officers that provides access to voluntary and confidential services to address the mental health issues of a police officer stemming from personal and work-related concerns, including stress, financial issues, legal issues, family problems, office conflicts, and alcohol and substance abuse disorders.

Current Law:

Maryland Police Training and Standards Commission

The Maryland Police Training and Standards Commission (MPTSC), an independent commission within the Department of Public Safety and Correctional Services, operates approved police training schools and prescribes standards for and certifies schools that offer police and security training. In consultation and cooperation with various entities, it also sets minimum qualifications for instructors and certifies qualified instructors for approved training schools.

In consultation with the Maryland Department of Health (MDH), MPTSC must establish a confidential hotline that is available for police officers and other law enforcement personnel to contact and speak with a trained peer law enforcement officer or a mental health professional who may provide initial counseling advice and confidential referral to appropriate services. In addition, MPTSC is required to develop standards for the mandatory psychological consultation with a law enforcement officer who was actively involved in an incident when another person was seriously injured or killed as a result of an accident or a shooting or has returned from combat deployment.

Employee Assistance Program

The Employee and Labor Relations Division within the Department of Budget and Management administers the Employee Assistance Program, which provides confidential and professional referral and assessment services to State employees experiencing personal difficulties that are affecting job performance.

Early Intervention Counseling

Each law enforcement agency must establish a confidential and nonpunitive early intervention policy for counseling officers who receive three or more citizen complaints within a 12-month period. The policy may not prevent the investigation of or imposition of discipline for any particular complaint.

Maryland Behavioral Health Crisis Response System

The Maryland Behavioral Health Crisis Response System (BHCRS) must (1) operate a statewide network utilizing existing resources and coordinating interjurisdictional services to develop efficient and effective crisis response systems to serve all individuals in the State, 24 hours a day and 7 days a week; (2) provide skilled clinical intervention to help prevent suicides, homicides, unnecessary hospitalizations, and arrests or detention, and to

reduce dangerous or threatening situations involving individuals in need of behavioral health services; and (3) respond quickly and effectively to community crisis situations.

In each jurisdiction, a crisis communication center provides a single point of entry to the system and coordination with the local core service agency (CSA) or local behavioral health authority, police, emergency medical service personnel, and behavioral health providers. Crisis communication centers are authorized to provide a variety of specified programs.

The Behavioral Health Administration within MDH determines the implementation of BHCRS in collaboration with the local CSA or local behavioral health authority serving each jurisdiction. Additionally, BHCRS must conduct an annual survey of consumers and family members who have received services from the system. Annual data collection is also required on the number of behavioral health calls received by police, attempted and completed suicides, unnecessary hospitalizations, hospital diversions, arrests and detentions of individuals with behavioral health diagnoses, and diversion of arrests and detentions of individuals with behavioral health diagnoses.

Chapter 209 of 2018 established a Behavioral Health Crisis Response Grant Program in MDH to provide funds to local jurisdictions to establish and expand community behavioral health crisis response systems.

Crisis Intervention Team Center for Excellence

Chapter 547 of 2020 established a Crisis Intervention Team Center of Excellence (CITCE) in the Governor's Office of Crime Prevention, Youth, and Victim Services to (1) provide technical support to local governments, law enforcement, public safety agencies, behavioral health agencies, and crisis service providers and (2) develop and implement a crisis intervention model program. The operation of CITCE is subject to the limitations of the State budget and must be supported by appropriations provided in the State budget, grants or other assistance from federal, State, or local government, and any other money made available to CITCE from any public or private source. By December 1 annually, CITCE must report to the General Assembly on its activities and related criminal justice efforts. "Crisis intervention model program" means a nationally recognized crisis intervention team program developed and published by the University of Memphis in Tennessee or a comparable nationally recognized crisis intervention team program.

State Expenditures: The State Employee Assistance Program provides confidential and professional referral and assessment services to State employees, including State law enforcement officers. Insurance plans offered to State employees also include some coverage for mental health services. In addition, some State agencies have established departmental employee assistance programs. However, it is unclear if the services currently

offered meet the bill’s requirements. To the extent that existing programs must be modified to meet the bill’s requirements, State expenditures (multiple fund types) increase minimally.

In addition, TTF expenditures for the Maryland Transit Administration (MTA) Police increase by \$104,288 in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects the cost of hiring a part-time administrator to administer and evaluate an early intervention system for law enforcement officers in the agency. It includes a salary, fringe benefits, one-time start-up costs, computer software licensing, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$33,952
Computer Software	65,000
Other Operating Expenses	<u>5,336</u>
Total FY 2022 MTA Expenditures	\$104,288

Future year expenditures reflect a full salary with annual increases and employee turnover and ongoing operating expenses.

Local Expenditures: Similar to the State, several local jurisdictions provide employee assistance programs for local government employees, including law enforcement officers. Insurance plans offered to local government employees also include some coverage for mental health services. In addition, some local law enforcement agencies have established employee assistance programs internal to their agencies. However, to the extent that existing programs must be modified to meet the bill’s requirements, local government expenditures increase minimally.

Montgomery County advises that psychological examinations offered to law enforcement officers are approximately \$200 per visit.

Additional Information

Prior Introductions: HB 736 of 2020, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, SB 565, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Designated Cross File: HB 88 (Delegate Brooks, *et al.*) - Judiciary.

Information Source(s): Maryland Association of County Health Officers; Kent, Montgomery, Washington, and Worcester counties; Maryland Association of Counties; City of Salisbury; Maryland Municipal League; towns of Bel Air and Leonardtown; Morgan State University; Department of General Services; Maryland Department of Health; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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