

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1307 (Delegate Smith)
Ways and Means

Education – Child Care Centers and Youth Development Organizations and
Programs (Support Youth Development for School–Age Children Act)

This emergency bill exempts “youth development organizations or programs” (YDOP) from the definition of a child care center and establishes additional requirements regarding their operations, including the submission of specified information annually to the Maryland State Department of Education (MSDE).

Fiscal Summary

State Effect: General fund expenditures may increase for MSDE to hire additional staff, as discussed below. Potential increase in general fund fee revenues from the certification of YDOPs. Despite the bill’s emergency status, it is assumed that any fiscal impact begins in FY 2022.

Local Effect: Potential impact on local government expenditures and revenues beginning in FY 2022, as discussed below.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: A “youth development organization or program” means the following organizations or programs that provide *out-of-school services* to school-age children who are at least age 6 and meet other specified requirements as established by the bill:

- affiliates, in good standing, of the YMCA of the USA and YWCA USA;
- affiliates, in good standing, of the Boys and Girls Clubs of America;

- programs of recreation and parks of a county or municipal corporation;
- programs organized and operated by public schools, including organizations subcontracted by public schools;
- programs that serve only secondary school students;
- programs that serve communities with a high concentration of students living in poverty and charge a maximum weekly fee of \$100; and
- programs funded and monitored by local management boards.

A YDOP must submit annually to MSDE, if applicable, (1) contact information for the organization or program, including the director of the organization or program; (2) the location of the organization or program; (3) an affidavit or other document demonstrating that the program remains in good standing with its national or local affiliate or monitoring agency; (4) a disclosure that the organization or program meets the requirements for any State or federal grants it receives; and (5) an affirmation that the facilities controlled by the organization or program meet any required fire and safety standards. YDOPs must also maintain liability insurance and records of criminal background checks performed on all employees and volunteers who have continual access to children engaged with the organization or program, and maintain any required fire and safety standards certifications. A criminal background check must be performed at regular intervals as determined by the national or local affiliate or monitoring agency.

All YDOPs must admit individuals from MSDE or an entity contracted by MSDE to inspect the facility to ensure compliance with the bill's requirements. MSDE may (1) prohibit YDOPs from participating in Maryland EXCELS or receiving Child Care Scholarship benefits; (2) create a public registry of YDOPs to provide information to schools, parents, and children; and (3) assess a maximum annual fee of \$100 for a YDOP to be certified.

Current Law: “Child care center” means an agency, institution, or establishment that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least twice a week, offers or provides child care to children under age 16 who do not have the same parentage except as otherwise provided for in law or regulation. As specified in regulation, “child care” does not include certain activities, such as school-age recreational or supplemental education programs operated by a local department of recreation or parks, law enforcement agency, or a public or nonpublic school, if custodial supervision is not the primary purpose of the program. The State Board of Education must adopt regulations relating to the licensing and operation of child care centers.

State Expenditures: General fund expenditures *may* increase for MSDE to hire dedicated staff to oversee YDOPs.

MSDE notes that during the COVID-19 pandemic, many more YDOP-type entities sought to provide custodial care, and Office of Child Care (OCC) staff worked with these organizations/programs to secure a child care license as currently required. However, MSDE advises that setting up a separate certification process for these entities requires additional staff and estimates associated expenditures of approximately \$160,000 annually to hire two program specialists.

The Department of Legislative Services (DLS) notes that the bill has the *potential* effect of reducing current monitoring efforts associated with YDOPs that currently provide child care services and are therefore required to be licensed by MSDE. Even so, it agrees that dedicated staff *may* be necessary to best facilitate efficient oversight of YDOPs.

DLS advises that the definition for YDOPs under the bill is applicable to entities that *provide out-of-school services*. Therefore, even entities that do not provide traditional child care services and, therefore, may not currently be under the purview of MSDE at all, are subject to the bill's requirements. Furthermore, as "out-of-school services" is not defined, it is somewhat unclear to what extent, *if any*, organizations/programs that qualify as a YDOP are restricted from providing a level of services that would be considered as child care/having custodial supervision as the primary purpose. For purposes of this fiscal and policy note, it is generally assumed that such entities will not be required to be licensed as a child care center, regardless of the "out-of-school services" provided.

Due to the lack of additional information on certain factors, including (1) the number of existing licensed child care centers that meet the definition of a YDOP as established by the bill; (2) any available information regarding the extent to which YDOP-type entities may alter offered services if no longer subject to more stringent child care licensing requirements; and (3) the number of YDOPs that may be newly subject to MSDE oversight, regardless of the type of services provided, DLS is unable to independently verify the specific staffing needs and associated costs as provided by MSDE.

For illustrative purposes only, if one additional program specialist is required, general fund expenditures increase by approximately \$80,000 annually. If dedicated staff is hired for YDOPs and a significant number of YDOPs are no longer subject to licensing requirements and/or more families switch to YDOPs instead of traditional child care, existing OCC staff may also realize operational efficiencies from monitoring fewer licensed child care programs, which may result in a net fiscal impact that is cost neutral within MSDE.

State Revenues: General fund revenues increase to the extent MSDE uses the authority provided in the bill to impose a maximum annual fee of \$100 to certify a YDOP. These revenues, if any, may offset in part or full general fund expenditures required to implement the bill.

Local Fiscal Effect: Local governments currently operating child care programs that may instead qualify as a YDOP under the bill may experience decreased overall expenditures if some costs associated with child care licensing requirements are no longer incurred. However, revenues may decrease to the extent that MSDE no longer allows YDOPs to receive Child Care Scholarship benefits and families currently utilizing such programs seek services elsewhere.

Conversely, other local governments may elect to add or develop programs, potentially increasing both expenditures and revenues. For example, Montgomery County advises that the bill allows its Recreation Department to increase programming options but anticipates that program expenditures are offset by revenues charged for program participation.

Some jurisdictions may incur new expenditures for existing programs from fees associated with certification as a YDOP. For example, Charles County anticipates up to \$800 in expenditures annually if State fees are imposed for its current programs.

Small Business Effect: It is assumed that most entities meeting the definition of a YDOP are not small businesses. However, if there are small businesses that meet the definition of a YDOP as established by the bill, they may benefit from the ability to operate without the requirements associated with a child care license and otherwise experience the impacts as discussed above for local governments. Traditional child care providers may be adversely affected to the extent that more YDOPs are able to provide services without the necessity of licensure and families utilize those services instead.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Charles, Frederick, and Montgomery counties; Maryland State Department of Education; Department of Natural Resources; Department of Legislative Services

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