

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 Third Reader

Senate Bill 331

(Senator King)

Judicial Proceedings

Health and Government Operations and
 Judiciary

Program for Preventing HIV Infection for Rape Victims – Alterations and
 Repeal of Sunset

This bill repeals the termination date of September 30, 2022, for the Pilot Program for Preventing HIV Infection for Rape Victims and establishes the program is permanent. The bill further repeals the annual limit of \$750,000 that may be paid to physicians, qualified health care providers, and hospitals from the Criminal Injuries Compensation Board (CICB). The Governor’s Office of Crime Prevention, Youth, and Victim Services (GOCPYVS) must file a report by December 1, 2022, and every two years thereafter on the operation and results of the program, as specified, during the immediately preceding two-year period. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Special fund expenditures increase by at least \$538,200 in FY 2023 for reimbursements and staff. Future years reflect annualization as well as annual increases in ongoing operating costs and, potentially, reimbursements. Revenues are not affected.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	538,200	716,900	724,400	731,600	739,000
Net Effect	(\$538,200)	(\$716,900)	(\$724,400)	(\$731,600)	(\$739,000)

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 431 of 2019 established the Pilot Program for Preventing HIV Infection for Rape Victims to prevent human immunodeficiency virus (HIV) infection for victims of an alleged rape or sexual offense or victims of alleged child sexual abuse. The program is administered by GOCPYVS. A qualifying victim must be provided with a full course of treatment and follow-up care for (nonoccupational) postexposure prophylaxis (nPEP) for the prevention of HIV, at the victim's request, and as prescribed.

A victim who receives treatment under the pilot program may decline to provide health insurance information or submit personal information to a payment assistance program if the victim believes that providing the information would interfere with personal privacy or safety. The physician, health care provider, or hospital providing the victim with treatment and follow-up care must inform the victim of the victim's right to decline to provide this information. If a victim declines to provide this information, the treatment and follow-up care must be provided free of charge. The physician, qualified health care provider, or hospital is entitled to be paid by CICB. However, total reimbursements from CICB to physicians, qualified health care providers, or hospitals under the pilot program may not exceed \$750,000 annually.

A physician or a health care provider who examines a victim of alleged child sexual abuse is immune from civil liability that may arise from the failure to obtain consent from a child's parent, guardian, or custodian for the examination or treatment of the child. This immunity extends to any hospital where the provider is affiliated, or the child is brought, and any individual working under the control or supervision of the hospital.

On December 1, 2021, GOCPYVS published a required report on the pilot program, which can be located [here](#).

Post-sexual Assault Care and Provider Reimbursement – In General

Under § 11–1007 of the Criminal Procedure Article, if a physician, qualified health care provider, or hospital provides any of the following services to a victim of an alleged rape, sexual offense, or child sexual abuse, the services must be provided without charge and the physician or hospital is entitled to be reimbursed by CICB (within the GOCPYVS) for the costs of providing the services: (1) sexual assault forensic examination, which is a physical examination to gather information and evidence as to the alleged crime; (2) emergency hospital treatment and follow-up medical testing for up to 90 days after the initial physical examination; and (3) an initial assessment of a victim of alleged child sexual abuse (for up to five hours of professional time of specified professionals to gather information and evidence).

The Sexual Assault Reimbursement Unit (SARU) within GOCPYVS provides reimbursement for the physical examination, collection of evidence, and emergency treatment of individuals for injuries resulting from alleged rape, sexual assault, or child sexual abuse.

Criminal Injuries Compensation Board

CICB awards grants to innocent victims of crime who incur financial hardship as a result of crime. Awards may be made for lost wages, medical expenses, counseling, crime scene cleanup, and, for homicide victims, funeral expenses. The board may make an award only if the claimant, as a result of the injury on which the claim is based, has (1) incurred at least \$100 in unreimbursed and unreimbursable expenses or indebtedness reasonably incurred or claimed for specified necessary expenses or (2) lost at least \$100 in earnings or support. Compensation awarded from the fund may not exceed specified limitations. Funding for these awards is provided by the Criminal Injuries Compensation Fund (CICF) from fees assessed by circuit and District courts. The fund is also supplemented by federal funds.

State Expenditures: Special fund expenditures increase by at least \$538,192 in fiscal 2023, which reflects likely costs to continue the program after the original termination date of September 30, 2022, and by a minimum of \$716,900 annually thereafter. As discussed further below, these costs are primarily for nPEP reimbursement, but they also include staffing costs.

Regular Positions	2.0
Reimbursement for nPEP	\$412,500
Salaries and Fringe Benefits	124,102
Operating Expenses	<u>1,590</u>
Increase in FY 2023 State Expenditures	\$538,192

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses and anticipated annualized reimbursement for nPEP and related costs of at least \$550,000.

Nonoccupational Postexposure Prophylaxis Reimbursement Costs

During the first two years of the pilot program (from October 1, 2019, through September 30, 2021) GOCPYVS reports that a total of 1,362 claims were received and paid at a cost of \$707,375 for initial patient care (including laboratory work), nPEP medication, and patient follow-up care. **Exhibit 1** shows the breakdown for the number of patients qualified for care, the number of patients receiving care, and the reimbursements made for patient care and medication during each of the first two years of the pilot program.

Exhibit 1
Patients Qualifying/Receiving Care and
Total Costs of Pilot Program for Preventing HIV for Rape Victims

	October 1, 2019 - September 30, 2020		October 1, 2020 - September 30, 2021	
	<u>Number of Patients</u>	<u>Cost</u>	<u>Number of Patients</u>	<u>Cost</u>
Qualified to Receive nPEP	295		852	
Receiving Initial Care (Including Laboratory Work)	264	\$76,837	728	\$197,114
Receiving nPEP	156	84,654	172	294,424
Receiving Follow-up Care	18	3,879	125	50,466
Total Claims Received and Paid	337	\$165,370	1,025	\$542,004

nPEP: nonoccupational postexposure prophylaxis

Note: Numbers are as reported in the required pilot program report and may not sum to total.

Source: Governor’s Office of Crime Prevention, Youth, and Victim Services; Department of Legislative Services

Accordingly, special fund expenditures from CICF are assumed to increase by at least \$412,500 in fiscal 2023 (reflecting the continuation of the program after October 1, 2022) and at least \$550,000 annually thereafter. This estimate reflects minimum reimbursement expenditures, based on the claims received and paid thus far under the pilot program. This analysis is premised on the assumption that there is sufficient fund balance in CICF to cover these expenditures. However, the Department of Legislative Services advises that CICF is unlikely to maintain current distributions (with a budget of \$3.1 million in fiscal 2023, plus federal funds) and accommodate additional expenditures should they exceed what is contemplated by this analysis.

Administrative Costs

Although reimbursement for nPEP treatment comes from CICB (using CICF monies), GOCPYVS advises that, in practice, claims are made through the SARU process in conjunction with sexual assault forensic examination claims. Under the pilot program, only contractual employees were needed for SARU, which is funded separately from CICB. Under the bill, full-time regular staff are assumed to be necessary due to the ongoing nature of the program. Specifically, two positions (one HIV prevention outreach coordinator and

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one nurse examiner) are needed to process claims, write the required biennial reports, and oversee the permanent program, at an estimated cost of \$125,692 in fiscal 2023 (reflecting the continuation of the program after October 1, 2022) and \$164,000 or more annually thereafter. This estimate includes salaries, fringe benefits, and ongoing operating expenses.

Small Business Effect: Physicians and other qualified health care providers may continue to be required to provide a full course of nPEP and other treatment to victims free of charge; however, they remain eligible to receive reimbursement from CICB within GOCPYVS.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 245 (Delegate Reznik, *et al.*) - Health and Government Operations and Judiciary.

Information Source(s): Governor's Office of Crime Prevention, Youth, and Victim Services; Maryland Department of Health; Department of Human Services; Department of Public Safety and Correctional Services; Department of Legislative Services

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