

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 292 (Delegate Davis)

Health and Government Operations and
 Economic Matters

Occupational Licensing Boards and Commission on Judicial Disabilities -
 Reporting Disciplinary Activities

This bill requires each business and health occupations board to include information on the gender, race, county of practice, type of disciplinary action imposed, length of disciplinary period, and amount of any fine imposed in any annual report on disciplinary activity issued by the board. By September 1 each year, the Commission on Judicial Disabilities must submit to the Governor and the General Assembly, a report on its disciplinary activities, including the above specified information for each judge disciplined.

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$120,000 in FY 2023 only for the Maryland Department of Labor (MDL), as discussed below. Special fund expenditures increase by *at least* \$174,300 in FY 2023 for the Maryland Department of Health’s health occupations boards, as discussed below; future years reflect annualization and elimination of one-time costs.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	120,000	0	0	0	0
SF Expenditure	174,300	82,100	84,700	86,900	89,600
GF/SF Exp.	-	0	0	0	0
Net Effect	(\$294,300)	(\$82,100)	(\$84,700)	(\$86,900)	(\$89,600)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Each business occupations board must include an option for and encourage an applicant to provide the applicant's gender, race, and ethnicity information on any initial or renewal application for a license, registration, or certificate.

Each health occupations board must include an option for and encourage an applicant to provide gender information on any application or renewal application for a license or certificate.

Current Law:

Occupational Licensing Boards

There are 20 health occupations boards and 17 business occupations boards likely subject to the provisions of the bill. Combined, these boards regulate more than half a million individuals and businesses in the State. Individuals licensed under the Health Occupations Article and the Business Occupations and Professions Article are subject to a range of disciplinary actions by the applicable board; specific grounds for disciplinary action vary by occupation.

Each health occupations board must include on an initial or renewal application an option for the applicant to provide the applicant's race and ethnicity information and encourage an applicant to provide the information.

Commission on Judicial Disabilities

The Commission on Judicial Disabilities was created to maintain public confidence in the integrity, independence, and impartiality of judges and the judicial system by enforcing standards of judicial conduct, among other things. By September 1 each year, the commission must submit an annual report to the Court of Appeals regarding its operations, including statistical data with respect to complaints received and processed. The report may not include material declared confidential under the Maryland Rules. The commission may also issue a publicly available statistical or annual report on the number of complaints received, investigations undertaken, and dispositions made within each category during a fiscal or calendar year. If a disposition has not been made public, the identity of the judge involved may not be disclosed or readily discernible from any public report.

State Expenditures:

Health Occupations Boards

Each of the 20 health occupations boards must revise all initial and renewal application forms and upgrade information technology (IT) systems (most applications are submitted electronically) to collect the additional demographic information. Current application forms generally include a section that allows individuals to provide their race and ethnicity information (and gender for some boards). The forms specify that providing such information is voluntary and the information will be used for statistical purposes only by authorized personnel. Given the large number of boards and IT systems involved, the full cost to change all forms cannot be reliably estimated at this time. However, the State Board of Nursing (BON) advises that the cost to upgrade its IT system to update applications and collect additional information is \$100,000. Thus, special fund expenditures increase by *at least* \$100,000 in fiscal 2023 only for BON. Actual costs are likely higher to reflect application and IT changes at 19 additional boards.

Each health occupations board must also include in any annual report of disciplinary activity by the board, specified demographic information for each individual disciplined by the board. For smaller boards with fewer licenses and disciplinary actions, this report can likely be produced using existing budgeted resources. However, the two largest boards (State Board of Physicians (MBP) and BON) advise that additional personnel are necessary.

MBP produces an annual report that includes data on the number and types of disciplinary actions taken by the board, disciplinary actions taken by practitioner type, and the amount of fines imposed by practitioner type. The report does not include specific demographic information as required under the bill. MBP advises that it takes more than 300 disciplinary actions annually, and thus additional personnel are needed to collect and report the information required under the bill. MBP special fund expenditures increase by \$37,121 in fiscal 2023, which accounts for the bill’s October 1, 2022 effective date. This estimate reflects the cost of hiring one part-time (50%) compliance analyst to maintain a database of disciplinary actions based on respondent demographics. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	\$30,181
Operating Expenses	<u>6,946</u>
Board of Physicians FY 2023 State Expenditures	\$37,127

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

BON produces an annual report that includes the number and types of disciplinary actions taken. The report does not include demographic information. BON advises that additional personnel are needed to collect and report the information required under the bill. BON special fund expenditures increase by \$37,127 in fiscal 2023, which accounts for the bill's October 1, 2022 effective date. This estimate reflects the cost of hiring one part-time (50%) administrative specialist to collect and report the specified demographic data. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses.

Position	0.5
Salary and Fringe Benefits	30,181
Operating Expenses	<u>6,946</u>
Board of Nursing FY 2023 State Expenditures	\$37,127

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and the elimination of one-time costs for contractual services.

Business Occupations

MDL currently handles the processing of 200 different application forms pertaining to licenses issued under the Business Occupations and Professions Article. All application forms must be updated to collect the information required under the bill. Thus, general and special fund expenditures increase by *at least* \$120,000 in fiscal 2023 for contractual services to update the applications and program MDL's database to generate statistics on race, gender, and ethnicity for issuing the required annual report.

The Commission on Judicial Disabilities

The Commission on Judicial Disabilities advises that, while information on gender and race is collected during the judicial application process, it is only obtained for statistical purposes (as stated on the application). Data on gender and race is not currently maintained, and the data is considered confidential. The commission further advises that while the commission may reprimand a judge, the Court of Appeals has the ultimate authority to impose discipline on judges, and the actions of the Court of Appeals do not constitute the disciplinary activities of the commission. If a commission's reprimand constitutes "discipline" under the bill, general fund expenditures may increase significantly beginning in fiscal 2023 to (1) encourage judges to provide the required information voluntarily and have each waive confidentiality so that the information may be reported and (2) hire additional staff to collect the required information, process waivers of confidentiality, and generate the required report. Additional support from the Courts and Judicial Affairs Division of the Attorney General's office may also be necessary to the extent that litigation increases for the commission under the bill.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 555 (Senators Watson and Carter) - Education, Health, and Environmental Affairs.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

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