

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 154
 Finance

(Senators Beidle and Augustine)

Health and Government Operations

Public Health - Mental Health Advance Directives - Awareness and Statewide Database

This bill requires the Maryland Department of Health (MDH) to develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State. The Behavioral Health Administration (BHA) and the Maryland Health Care Commission (MHCC) must jointly study how first responders and behavioral health crisis providers can access the advance directives database (as developed by MHCC in accordance with statute) when responding to a behavioral health crisis and report to specified committees of the General Assembly by December 1, 2023. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase by *at least* \$140,700 in FY 2024 for MDH to hire staff and procure specified materials; future years reflect annualization and the elimination of one-time costs. BHA and MHCC can complete the required study and report with existing budgeted resources. Any operational impact on the Department of Public Safety and Correctional Services (DPSCS) can be absorbed within existing budgeted resources, as discussed below. Revenues are not affected.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	140,700	87,400	91,300	95,400	100,400
Net Effect	(\$140,700)	(\$87,400)	(\$91,300)	(\$95,400)	(\$100,400)

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

Local Effect: Any change in operational activities for local government agencies, including local correctional facilities and local health departments, does not materially affect local finances.

Small Business Effect: Potential minimal.

Analysis

Bill Summary:

Public Awareness Campaign

The public awareness campaign must include initiatives to encourage and support outreach efforts by specified persons and agencies to inform present or future recipients of mental health services and members of their families, health care providers, and other behavioral health care partners about mental health advance directives.

Current Law:

Advance Directives

In general, an advance directive allows an adult who has decision making capacity to deal with future health care issues through written instructions, a written appointment of an agent, or an oral statement to a physician or nurse practitioner. The advance directive outlines the individual's instructions regarding the provision of health care or withholding or withdrawing health care. The individual may name an agent to make health care decisions under circumstances stated in the directive, and the authority of surrogate decision makers is specified based on their relationships with the individual. The directive becomes effective when two physicians have certified in writing that the patient is incapable of making an informed decision.

In general, a written or electronic advance directive must be dated, signed by or at the express direction of the individual making the advance directive, and subscribed by two witnesses.

MHCC recognizes electronic advance directive services to be authorized for connection to the State-designated health information exchange (HIE) subject to security provisions. An individual may register an advance directive with such a service recognized by MHCC. Currently, ADVault, Inc. (or MyDirectives.com) is the only web-based repository recognized by MHCC.

Under § 19-145.1 of the Health-General Article, MHCC must coordinate the accessibility of electronic advance care planning documents (including advance directives and medical orders for life-sustaining treatment forms). Among other things, MHCC must collaborate with the State-designated HIE to develop an electronic platform through which individuals can upload, save, and update advance care planning documents, and health care providers can access electronic advance care planning documents, as appropriate.

Maryland Behavioral Health Crisis Response System

Behavioral Health Crisis Response Services 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.

State Expenditures:

Maryland Department of Health

General fund expenditures increase by *at least* \$140,682 in fiscal 2024, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring one administrative program manager to develop, manage, coordinate, and monitor the required public awareness campaign. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, and approximately \$67,000 in one-time costs to procure materials for implementation of the awareness campaign.

Position	1.0
Salary and Fringe Benefits	\$66,273
Awareness Campaign Materials	67,000
Operating Expenses	<u>7,409</u>
Public Awareness Campaign FY 2024 State Expenditures	\$140,682

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

Department of Public Safety and Correctional Services

DPSCS advises that the bill has a potential operational impact depending on how a mental health advance directive affects the provision of mental health services in the correctional setting, including the transfer of an inmate to a preferred medical or mental health facility, the provision of preferred or authorized medications, and the consultation of an appointed agent to act on an inmate's behalf. However, DPSCS advises that any change in operations can be absorbed within existing budgeted resources.

Additional Comments: A mental health advance directive is a legal written document that outlines an individual's treatment preferences (including where to receive care and what treatments they are willing to undergo) in the event that a mental health crisis occurs,

and the individual is unable to make treatment decisions. An individual may also identify an agent or representative who is trusted and legally empowered to make health care decisions on his or her behalf.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 994 and HB 1467 of 2022.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Baltimore City Community College; University System of Maryland; Maryland Independent College and University Association; Morgan State University; Department of Information Technology; Maryland Department of Health; Department of Public Safety and Correctional Services; Department of State Police; Department of Veterans Affairs; Department of Legislative Services

Fiscal Note History: First Reader - February 3, 2023
km/jc Third Reader - March 27, 2023
Revised - Amendment(s) - March 27, 2023

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