

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 270

(Chair, Judicial Proceedings Committee)(By Request -
Departmental - Human Services)

Judicial Proceedings

Judiciary

Adult Protective Services - Review Boards - Membership and Terms

This departmental bill alters statutory provisions regarding adult public guardianship review boards, including reducing (from 11 to 8) the number of required members and altering membership qualifications.

Fiscal Summary

State Effect: The bill does not materially affect State operations or finances.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: The Department of Human Services (DHS) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary/Current Law: A vulnerable adult is an adult who lacks the physical or mental capacity to provide for his or her daily needs. It is the policy of the State for vulnerable adults to have access to and be provided with needed professional services sufficient to protect their health, safety and welfare.

If a local department of social services receives a report that an alleged vulnerable adult has been subjected to abuse, neglect, self-neglect, or exploitation, the department is required to conduct a thorough investigation. Following an investigation, if an individual is determined to require protective services but is unwilling or unable to accept protective

services voluntarily, the director may petition the court for the appointment of a guardian. A director of a local department in the county where the vulnerable adult lives may be appointed as guardian.

Every county is required to have an adult public guardianship review board. Two or more counties may agree to establish a single multicounty review board. The review board must generally review each guardianship that a public agency holds every six months. Guardianships that a public agency has held for more than one year must be reviewed at least annually, with a file review to take place at least every six months. Each time the review board reviews a guardianship, the board must recommend whether the guardianship should be continued, modified, or terminated.

Under current law, except in St. Mary's and Washington counties, each 11-member review board is required to have:

- one professional representative of a local department;
- one physician's assistant, nurse practitioner, or physician who is not a psychiatrist;
- one psychiatrist;
- one representative of a local commission on aging;
- one professional representative of a local nonprofit social service organization;
- one lawyer;
- two lay individuals;
- one registered nurse;
- one professional in the field of disabilities; and
- one person with a physical disability.

Members are not entitled to compensation but may be reimbursed for expenses. The membership of the board in St. Mary's and Washington counties is identical to the listing above except for the psychiatrist requirement; St. Mary's and Washington counties allow for a psychiatrist or *psychologist* on the review board.

The bill repeals the provisions specific to St. Mary's and Washington counties. The bill also (1) removes the *requirement* for the boards to include a registered nurse (instead requiring one physician's assistant, nurse practitioner, *registered nurse*, or physician who is not a psychiatrist); (2) requires the membership of *either* a professional in the field of disabilities *or* a person with a disability; (3) requires the membership of a psychiatrist, *a psychiatric nurse practitioner*, or *a professional with expertise in prescribing or oversight of mental health medications*; and (4) requires only one lay individual on the board.

Under current law, board members are appointed by specified local government officials. The bill requires these officials to also *recruit* board members.

Under current law, except for Charles County, the term of a member is three years. In Charles County, the term of a member is four years. The terms of members are to be staggered. At the end of a term, a member continues to serve until a successor is appointed and qualifies to fill the vacancy.

The bill authorizes a member to serve for another term on appointment and removes the requirement for terms to be staggered.

Background: DHS reports that review boards are facing challenges due to vacancies. For instance, according to information provided in September 2023, there were 71 vacancies across the State. According to DHS, it is especially challenging to fill physician and psychiatrist positions, which are critical for assessing medical care adequacy. DHS advises that the legislation is intended to make it easier to recruit and maintain the multidisciplinary membership needed to be effective in protecting the rights and welfare of the vulnerable adults subject to the boards' review.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): St. Mary's County; Department of Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2024
km/jkb Third Reader - February 21, 2024

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: **Adult Protective Services - Review Boards - Membership and Terms**

BILL NUMBER: SB0270

PREPARED BY: Pam Luby (reviewed by Sang Kang)

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This proposed legislation alters the membership of Adult Public Guardianship Review Boards under MD Code, Family Law, § 14-402. Adult Guardianship Public Review Boards are volunteer entities and are not funded publicly or privately, therefore have no economic impact on Maryland small businesses.