Fiscal Note & Local Impact Statement

Bill: H.B. 333 of the 128th G.A. Date: February 24, 2010
Status: As Introduced Sponsor: Rep. Stewart
Local Impact Statement Procedure Required: No — Minimal cost
Contents: To establish the Compassionate Assistance for Rape Emergencies Act regarding emergency services provided to victims of sexual assault

State Fiscal Highlights

- **Ohio Department of Health (ODH) and Attorney General.** The bill creates standards of care for victims of sexual assault and requires ODH to investigate associated complaints. If a violation has occurred, ODH must impose a civil penalty of not less than $10,000 for each violation. The civil penalties would generate revenue. The bill also allows ODH to ask the Attorney General to bring an action for injunctive relief in cases where a previous violation has occurred. Hospitals are not licensed or certified by ODH. As a result, this requirement will increase costs for ODH. Any increase in costs associated with the Attorney General is expected to be minimal since the number of violations is expected to be few in number. The Attorney General uses a mix of GRF and other state funds for expenses of this type. There is the potential that some of these costs could be recovered if a violator is required to pay costs.

- **Ohio Department of Job and Family Services.** The bill specifies that hospitals are not prohibited from seeking reimbursement for the costs of services provided from the victim's health insurance or Medicaid, if applicable. If hospitals provide additional services as a result of the bill to individuals on Medicaid, it is possible that Medicaid expenditures could increase.

Local Fiscal Highlights

- **Courts of common pleas.** If injunctive relief is sought by the Attorney General’s Office for failure to comply with the bill’s standards of care for victims, courts of common pleas could experience an increase in court and administrative costs. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. Some of these costs could be recovered if a violator is required to pay costs and/or fines.

- **Public hospitals.** The bill creates standards of care for victims of sexual assault. According to the Ohio Hospital Association (OHA), it is believed that most, if not
all, public hospitals currently provide the services required under these standards. If a public hospital is not currently providing these services, costs could increase. However, the bill does not prohibit hospitals from seeking reimbursement for the costs of services provided from the victim’s health insurance or Medicaid, if applicable, and to the extent permitted by section 2907.28 of the Revised Code, which deals with payments of medical exams for victims of crimes for possible prosecution.
Detailed Fiscal Analysis

Standards of care

For hospitals that offer organized emergency services, the bill establishes a standard of care regarding the services to be provided to victims of sexual assault. The bill specifies that a hospital must provide a victim with medically and factually accurate, unbiased, and clear and concise written and oral information about emergency contraception. The hospital is required to offer the victim emergency contraception and provide the contraception if the victim accepts the offer. Additionally, the hospital must provide the victim with an assessment of the victim's risk of contracting a sexually transmitted disease (STD). The bill specifies that the hospital is to offer treatment for STDs and provide the treatment after the counseling. The bill also specifies that the hospital must provide the victim with counseling on the physical and mental health benefits of seeking follow-up care before the victim leaves the hospital.

The bill specifies that the hospital is to provide these services regardless of the victim's ability to pay. However, the hospital is not prohibited from seeking reimbursement for the costs of services provided from the victim's health insurance or Medicaid, if applicable. The hospital continues to be subject to the existing prohibition on billing a victim or the victim's insurer for costs incurred in performing an examination for the purpose of gathering physical evidence for possible prosecution. Payments for these types of examinations are made by the Attorney General.

Complaints, fines, and injunctions

The bill allows an individual to file a complaint with the Ohio Department of Health (ODH) if the hospital has failed to comply with the bill's standard of care for victims. ODH is required to investigate the complaint in a timely manner. If a violation has occurred, ODH must impose a civil penalty of not less than $10,000 for each violation. If a previous violation has occurred at a hospital, ODH may ask the Attorney General to bring an action for injunctive relief. On such a filing, courts of competent jurisdiction must conduct a hearing.

Fiscal effects

Currently, hospitals may be accredited by the Joint Commission, Det Norske Veritas Healthcare, or the American Osteopathic Association. According to ODH's website, hospitals with accreditation by an accrediting organization that the Centers for Medicare and Medicaid Services (CMS) has approved are deemed to meet all conditions of participation for Medicare Program participation and are not under the jurisdiction of ODH for survey and certification. However, nonaccredited hospitals are subject to survey by ODH at an interval not to exceed five years. Hospitals are not licensed by ODH, but are required to annually register and report certain information.
The bill requires ODH to investigate complaints relating to the standards of care for victims of sexual assault. ODH does currently investigate some complaints involving accredited hospitals when directed by CMS. Nonaccredited hospitals are surveyed by ODH. As a result of the bill, ODH could incur increased costs for additional administration, investigation, and technical support related to the standard of care provisions. The bill specifies that ODH could impose a civil penalty of not less than $10,000 for each violation. However, ODH maintains program expenses would likely be more than any fine revenue collected. Lastly, ODH has stated that rule-making authority is needed to implement the requirements in the bill.

According to the Ohio Hospital Association (OHA), it is believed that most, if not all, public hospitals currently provide these services. If a public hospital is not currently providing these services, costs could increase. However, the bill does not prohibit hospitals from seeking reimbursement for the costs of services provided from the victim's health insurance or Medicaid, if applicable, and to the extent permitted by section 2907.28 of the Revised Code, which deals with payments of medical exams for victims of crimes for possible prosecution. It is unclear how often reimbursements occur and if these reimbursements cover the full costs of the services rendered. Also, OHA has stated that it is possible that hospitals may feel the need to hire a Sexual Assault Nurse Examiner as a result of the bill. If this occurs, costs could increase for those hospitals that do not currently have these types of nurses on staff. Additionally, if hospitals provide additional services as a result of the bill to individuals on Medicaid, it is possible that Medicaid expenditures could increase.

The Attorney General’s Office would experience an increase in costs if injunctive relief is sought against a hospital violating the provisions of the bill. Injunctive relief would be sought after all other avenues requesting compliance had been exhausted. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. The Attorney General uses a mix of GRF and other state funds for expenses of this type. Some of these costs could be recovered if a violator is required to pay costs. If injunctive relief is sought by the Attorney General’s Office, courts of common pleas could experience an increase in court and administrative costs. Any increase in costs is expected to be minimal since the number of violations is expected to be few in number. Some of these costs could be recovered if a violator is required to pay costs and/or fines.