



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1037

PRINTERS NO. 3808

PRIME SPONSOR: Kampf

COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
General Fund	\$0	\$0

SUMMARY:

House Bill 1037 amends the Medical Care Availability and Reduction of Error (MCARE) Act concerning punitive damages. It would take effect in 60 days.

ANALYSIS:

House Bill 1037 amends the Medical Care Availability and Reduction of Error (MCARE) Act by limiting punitive damages to 250% of the amount of compensatory damages awarded in suits against personal care homes and assisted living communities licensed by the Department of Human Services, as well as long-term care nursing facilities licensed by the Department of Health.

The bill includes several exceptions to this limitation. The limitation will not apply in suits when the tort occurred under the influence of alcohol or a nonprescribed controlled substance. It will also not apply in suits where the plaintiff is a veteran, is an unemancipated minor, is diagnosed with post-traumatic stress disorder, has an intellectual disability, or if the plaintiff suffered battery or sexual or physical abuse. In addition, the limitation will not apply if the trier of fact finds that the employee or agent of the nursing home or assisted living community acted with intent to harm, falsified medical records relating to the case, or is convicted of, or enters a diversionary program for, a crime arising out of the conduct that caused the harm.

Three years after this legislation takes effect, the Legislative Budget and Finance Committee must conduct a study measuring the impact of this legislation on the number of lawsuits filed against nursing homes, personal care homes, and assisted living residences, including awards from both settlements and trials. The study must document the trend in the awarding of compensatory damages and punitive damages and the percentage of cases involving alleged sexual abuse, sexual assault and rape, as well as the percentage of cases involving patients who have been diagnosed with Alzheimer's disease or dementia.

FISCAL IMPACT:

Enactment of this legislation will have no adverse impact on Commonwealth funds.

PREPARED BY: Jeff Miller
House Appropriations Committee (R)

DATE: June 25, 2018

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.