



THE PRINCE GEORGE'S COUNTY GOVERNMENT

Office of Audits and Investigations

October 13, 2021

MEMORANDUM

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

FROM: Josh Hamlin 
Senior Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-102-2021 – COVID-19 Vaccination Requirements – Child Care

CB-102-2021 (*Proposed and presented by: Council Member Ivey*)

Assigned to Committee of the Whole (COW)

AN ACT CONCERNING COVID-19 VACCINATION REQUIREMENTS FOR CHILD CARE FACILITY AND DAY CARE CENTER STAFF for the purpose of requiring COVID-19 vaccinations of all child care facility and day care center staff.

Fiscal Summary

Direct Impact:

Expenditures: None

Revenues: None

Indirect Impact:

Potentially positive

Legislative Summary:

CB-102-2021, proposed by Council Member Ivey, was presented on September 28, 2021 and referred to the Committee of the Whole (COW). The purpose of this Bill is to require all child care and day care facility staff to be fully vaccinated against the COVID-19 virus.

Resource Personnel:

- Monica Young, Chief of Staff, District 5
 - John Sheridan, Policy Analyst, District 5
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Background/Current Law:

The Maryland, the State Department of Education (MSDE) is the primary entity responsible for all child care licensing and regulation within the State.¹ Additionally, the County currently regulates child care facilities under Subtitle 5, Division 3, and day care centers under Subtitle 5, Division 3A. Section 5-119(b) generally defines a “Child Care Facility” as “a facility which is an agency or institution offering or supplying group day care to seven (7) or more children who have not the same parentage, for a portion or all of a day and on a regular schedule more than once a week.”² “Day Care Centers” subject to regulation are defined in §5-130 as follows:

- (a) Day Care Center for Adults means a place that is operated to provide, with or without charge, care for medically handicapped adults and either: is designated for group day care for four (4) or more medically handicapped adults; or is a family home that provides day care for two (2) or three (3) medically handicapped adults.
- (b) Day Care Center for the Elderly means a place that is operated to provide, with or without charge, care for elderly individuals and either is: designated for group care for at least four (4) elderly individuals; or is a family home that provides care for two (2) or three (3) elderly individuals.

¹ <https://earlychildhood.marylandpublicschools.org/regulations>

² §5-119(b) continues: “This shall include, but not be limited to, the following: group day care centers, nursery schools, kindergartens, special schools for the care of the preschool age children and day care centers for mentally retarded persons; except that programs for children under six years of age which are part of a bona fide church operated day school ministry exempt under Education Article Section 2-206(e)(4) of the Annotated Code of Maryland or kindergartens approved by the State Department of Education shall be exempt from the requirements of this Division as to the application, issuance, maintenance, or revocation of a permit; however, programs for children under six years of age which are part of a bona fide church operated day school ministry or an approved kindergarten shall be subject to all other provisions of this Division and it shall be unlawful for any person responsible for the operation thereof to refuse or fail to comply after notice by the Health Officer and a reasonable time for compliance has expired. “Child Care Facility” does not include family day care homes, as defined in Title 5, Part V, Family Law Article, Annotated Code of Maryland, which are licensed by the Social Services Administration of the State Department of Human Resources.”

With regard to child care centers, §5-126(a) imposes a number of health requirements on employees of the centers. These include: (1) required preemployment medical examinations for all staff members; (2) required annual tuberculosis examinations for each adult in a facility who comes in contact with the children; (3) the requirement that each staff member, volunteer, substitute, participating parent, and member of the household who is in contact with the children enrolled in the facility shall, upon request, furnish such information, permit such examination, or x-rays and submit such laboratory specimens as the Health Officer may require for purpose of determining freedom from disease or condition hazardous to the children when the Health Officer has reason to believe that a communicable disease exists; (4) prohibition of staff personnel with evidence of communicable disease in a communicable stage or form from work at the facility during the period of communicability; and (5) the requirement that staff members wash hands thoroughly with soap and running water after handling wet or soiled diapers and clothing, after toileting children, after handling pets, and before handling food.

While no vaccination requirements are currently in the law pertaining to *staff or other adults* in child care centers, §5-126(b) requires *children* in child care centers to furnish evidence of primary immunizations against diphtheria, tetanus, pertussis, poliomyelitis, measles (rubeola), and German Measles (rubella), in a manner approved by the Health Officer and any other immunizations deemed necessary by the Secretary of the Department of Health and Mental Hygiene³ and in conformance with COMAR 10.06.04 Required Immunizations Prior to Entry Into a Maryland School. This section does include a religious exemption for the child of a parent “who presents a written statement of objection to immunizations upon the grounds that they conflict with the tenets or practices of a recognized church or religious denomination of which he is a member, shall not be required to present a physician's certificate of immunization.” *However*, this exemption does not apply in case of an emergency or epidemic of disease which is declared by the Secretary of Health and Mental Hygiene.

Substantive regulation of adult day care centers and day care centers for the elderly is done primarily through the State of Maryland Department of Health.⁴ Subtitle 5, Division 3A does not impose any similar health requirements on either staff members or attendees of adult day care centers or day care centers for the elderly. The only substantive provision in the Division is a requirement that lessees notify their landlords upon application for registration of a Family Day Care Home with the Department of Social Services, or application for a license for a Day Care Center for Adults or Day Care Center for the Elderly with the Department of Health and Mental Hygiene.

³As of July 1, 2017, this agency is known as the Maryland Department of Health:
<https://health.maryland.gov/newsroom/Pages/July-1-marks-name-change-to-Maryland-Department-of-Health.aspx>

⁴ <https://aspe.hhs.gov/sites/default/files/private/pdf/108011/adultday14-MD.pdf>

Discussion/Policy Analysis:

CB-102-2021:

The substance of CB-102-2021 is straightforward. It would add a new provision to §5-126(a) that “[s]taff members shall be fully vaccinated for the COVID-19 virus and shall provide proof of such vaccination.” (see page 2, lines 2-3) It would further create a new to §5-133 in Division 3A with an identical provision for staff at adult day care centers and day care centers for the elderly. The Bill does not include any exemptions or alternative testing requirements.

Child Care Centers:

As most children in child care centers are below the age of 12 years, and are thus not eligible for the COVID-19 vaccine at this time, they are particularly at risk of being infected by and spreading the virus. For their own safety, and that of others around them, it is critical to maximize the vaccination rate of eligible center staff. The Centers for Disease Control and Prevention (CDC) has issued guidance for teachers and childcare centers, including the recommendation that teachers and staff get vaccinated against COVID-19 “as soon as possible.”⁵ Further, the Maryland Department of Health (MDH) and MSDE, in their most recently revised “P-12 School and Child Care COVID-19 Guidance,” strongly recommend that all eligible Marylanders receive a COVID-19 vaccine.⁶ The Guidance further indicates that “[b]y law, each local school system, nonpublic school, and child care program may set their own policies and procedures for their schools, students/children, teachers, and staff. However, MDH and MSDE strongly recommend that these entities work with local health departments to determine the layered prevention strategies (e.g., using multiple prevention strategies together consistently) needed to protect students/children, teachers, and staff in their setting and adopt policies consistent with the recommendations in the Guidance.

Adult Day Care Centers and Day Care Centers for the Elderly:

According to the CDC, “older adults and people with disabilities who are not fully vaccinated are at highest risk for severe illness from COVID-19, which may include hospitalization, intensive care, and death.” The CDC recommends that “administrators, staff, volunteers, and participants should get vaccinated as soon as possible.”⁷

Other jurisdictions:

Washington, DC and several states have required, via executive action, employees in child care centers to be vaccinated against COVID-19. The following are examples of these requirements; as this is an area of regulation with a great deal of fluidity, it may not be an exclusive list.

⁵<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups/teachers-childcare.html>

⁶https://earlychildhood.marylandpublicschools.org/system/files/filedepot/3/covid_guidance_full_080420.pdf

⁷<https://www.cdc.gov/aging/covid19/adult-day-care-service-centers.html>

- *Washington, DC*

Per announcement of Mayor Bowser on September 20, 2021⁸ and Order 2021-109, all adults who are regularly in schools and child care centers facilities in the District must be vaccinated against COVID-19 by November 1. There will be no test-out option.⁹

- *Connecticut*

On September 10, the governor announced that he issued Executive Order No. 13G, which requires that all Connecticut state employees and staff of all childcare facilities and preK-12 schools statewide receive at least one dose of a COVID-19 vaccine by September 27, 2021. Those who do not get vaccinated due to certain exemptions will be required to test for COVID-19 on a weekly basis.¹⁰

- *New Jersey*

On September 20, the governor issued Executive Order No. 264, which, among other things, requires all child care center personnel to be fully vaccinated against COVID-19 by November 1 or be subject to COVID-19 testing one to two times per week.¹¹

- *Puerto Rico*

On August 19, Governor Pierluisi issued Executive Order 2021-064, which requires gyms, beauty salons, barber shops, spas, childcare centers, casinos, and markets to ensure their employees and contractors are vaccinated, with one dose completed by August 30 and the second dose completed by October 15. Exempted employees must undergo weekly testing or provide a medical certification that they have already recovered from a prior infection.¹²

- *Washington*

Proclamation 21-14.1, issued on August 20, expands prior order 21-14 to require all employees, on-site contractors, and on-site volunteers at all public and private K-12 schools, public and private 2- and 4-year institutions of higher education, and early learning and child care programs serving children from multiple households to be vaccinated against COVID-19 as a condition of

⁸https://mayor.dc.gov/sites/default/files/dc/sites/mayoromb/release_content/attachments/COVID-19-Situational-Update-Presentation_09-20-21.pdf

⁹https://coronavirus.dc.gov/sites/default/files/dc/sites/coronavirus/page_content/attachments/Mayor%27s%20Order%202021-109%20-%20COVID-19%20Vaccination%20Requirement%20for%20Adults%20Regularly%20in%20Schools%20or%20Child%20Care%20Facilities%20and%20for%20Students%20and%20Athletes.pdf

¹⁰<https://portal.ct.gov/-/media/Office-of-the-Governor/Executive-Orders/Lamont-Executive-Orders/Executive-Order-No-13G.pdf>

¹¹<https://nj.gov/infobank/eo/056murphy/pdf/EO-264.pdf>

¹²<https://www.estado.pr.gov/en/executive-orders/>

employment.¹³ On September 8, the State released updated COVID-19 Vaccine Requirement FAQs for Child Care, Early Learning, and Youth Development Providers.¹⁴

Fiscal Impact:

Direct Impact

Enactment of CB-102-2021 is not likely to have an adverse fiscal impact on the County. Any enforcement would likely not entail a large amount of staff time.

Indirect Impact

Enactment of CB-102-2021 may have a positive indirect fiscal impact to the extent that it reduces the spread and severity of the COVID-19 virus in the County and thereby reduces residents' need for associated County services.

Appropriated in the Current Fiscal Year Budget

N/A.

Effective Date of Proposed Legislation:

The proposed legislation shall take effect forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please call me.

¹³https://www.governor.wa.gov/sites/default/files/proclamations/21-14.1%20-%20COVID-19%20Vax%20Washington%20Amendment.pdf?utm_medium=email&utm_source=govdelivery

¹⁴<https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/820-216-VaccinationRequirementFAQChildCare.pdf>