

**MEMORANDUM**

February 20, 2020

**TO:** Health and Human Services Committee  
Public Safety Committee

**FROM:** Jeff. Zyontz, Senior Legislative Analyst

**SUBJECT:** Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing – Amendments  
Resolution to adopt Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing – Amendments as a Board of Health Regulation.

**PURPOSE:** Worksession – Committee to make recommendations on Bill and Resolution

**Expected Participants:**

Hadi Mansori, Acting Director, DPS  
Clark Beil, Sr. Administrator Licensure and Regulatory Services, HHS  
Paula Jilanis, Chair, Maryland Board of Massage Therapy Examiners  
Amelia Mitchel, American Massage Therapy Association

**Background**

Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing - Amendments, Lead Sponsors Councilmember Rice and Council Vice President Hucker, and Co-Sponsors, Council President Katz and Councilmembers Navarro, Alborno and Riemer, was introduced on January 14, 2020.<sup>1</sup>

As introduced, Bill 1-20 would:

- (1) amend code provisions concerning massage establishments;
- (2) expand the scope of bodywork establishments to include massage establishments;
- (3) require every individual performing bodywork services to be a certified massage therapist or registered massage practitioner;
- (4) require compliance with all County licensing requirements as a condition of building permits; and
- (5) allow the revocation of use and occupancy permits for zoning and licensing violations.

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<sup>1</sup>#BodyworkLicensing

In a separate related action, Bill 1-20 is proposed to be enacted as a health regulation.

### **Public Hearing**

The Council conducted a public hearing on February 4, 2020. Five people testified on Bill 1-20. No one testified on the proposed health regulation. Representatives from the American Massage Therapy Association and the Maryland State Board of Massage Therapy Examiners testified. Both were dissatisfied with how the Bill singled out massage establishment as a place for sexual activity. One licensed massage practitioner complained about the Bill's added burdens to legal businesses particularly sole practitioners. A certified Reflexologist complained that her profession is not being treated as the independent discipline that it is. In a separate letter, the Chair and Vice Chair of the Human Trafficking Prevention Committee expressed the Committee's significant reservations about the Bills effectiveness in combatting human trafficking and concern that some provisions were potentially harmful to victims.

### **Fiscal and Economic Impact**

The Executive believes that more staff in the Department of Health and Human services would be needed to enforce the new licensing requirements. The Executive estimates that there are 200 possible establishments in the County that may be required to have new licenses. The new employees needed for enforcement would cost approximately \$500,000 per year. The Executive believes that the Bill would have no measurable economic effect on employment, spending, savings, investments, incomes, and property values in the County.

Bill 1-20 would increase the burdens for current bodyworks establishments. The number of establishments required to obtain a license would be increased. In order to obtain a license, current and future employees would need to be credentialed to work in those establishments.

### **Issues**

#### **Why change anything in Chapter 8 concerning Occupancy Permits?**

Under the conditions of a permit in Subsection 8-26 (g), there must be compliance with all applicable zoning regulations. Bill 1-20 would also require compliance to licensing regulations by building occupants. The amended provision would allow the Department of Permitting Services to enforce licensing laws.

Section 8-28 would allow the Director of DPS to revoke a use and occupancy permit for violating zoning of licensing. This provision gives the Department a significant way to ensure the health and safety of users in the permitted space.

Testimony suggested a problem. It is not difficult for an evicted business to be replaced with an identical business by a business associate of the evicted business. The sponsors suggest the following revision to Subsection 8-28 (j) to address this problem:

For 12 months, a use and occupancy permit revoked for a bodyworks establishment prohibits the Director from issuing of a use and occupancy permit for another bodyworks establishment at the same location. (Lines 20-23.)

**Why delete the existing provisions in Chapter 24 concerning massage?**

Section 24-8 concerns business performing massage without the practitioner having a massage Maryland license.<sup>2</sup> Unless this performed in a health care setting, this would be an illegal business under state law.<sup>3</sup> The Department of Health and Human Services reports that no licenses have been issued under this section of code. The section is at best out of date even if it was effective.

**Why define bodyworks as essentially including massage, reflexology, and acupressure?**

From the standpoint of a customer/patient being touched by a practitioner, the definition of bodywork establishment in the Bill is narrow. It does not include all licensed activities such as chiropractors, cosmetologists, and barbers. In the opinion of the sponsors, the Bill is directed at activities that represent a health problem to the community. Credentialed practitioners would minimize adverse health effects.

**Should a bodyworks license be required for a sole practitioner?**

Testimony objected to the burdens the Bill would impose on a sole practitioner. As introduced, a credentialed individual without any employees would have to have an establishment license. The sponsors recommend correcting the oversight by excluding the professionally licensed sole practitioner. (See lines 311-312.)

**Should a reflexology Certificate be recognized as an appropriate credential?**

As introduced, every practitioner included within the definition of bodyworks would need to be a Licensed Massage Therapist or a Registered Massage Practitioner. Testimony asserted that there was a national certification process for reflexology that should be recognized.

The essence of Bill 1-20 is to ensure that a massage, reflexology or acupressure business employs people who are trained in such subject as anatomy, physiology, hygiene, pathology, the treatment of customers with specific conditions, contra indications, and ethics. Maryland requires people performing massage therapy to be licensed or registered. Both require course work before passing an exam.

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<sup>2</sup> Section 28-8 (a) Massage establishment mean any business where any employee, agent or contractor who is not a certified massage therapist or registered massage practitioner under state law performs a massage.

<sup>3</sup> Section 6-301. License and registration required; exceptions.

(a) In general. -- Except as otherwise provided in this title, an individual shall be:

(1) Licensed by the Board before the individual may practice massage therapy in the State; or  
(2) Registered by the Board before the individual may practice massage therapy in a setting that is not a health care setting in the State.

The sponsors also agreed with recognizing a person certified to practice by the American Reflexology Certification Board or the National Certification Commission for Acupuncture and Oriental Medicine as properly credentialed. These bodies are non-government entities that have a substantial education required before qualifying for an examination. Because the Council may not delegate its authority to a non-government entity, the Council must also allow for an equivalent certification as determined by the Director of Health and Human Service. (Line 324-325 and 327-328.)

**Should sexual activity (already covered by criminal law) continue to be addressed?**

In the current code, “sexual activity” is defined.<sup>4</sup> (Lines 333-337.) A bodyworks establishment may have its license revoked if the operator of the establishment allows a person to perform sexual activity with another person. (Lines 390-392) Testimony objected to this reason for revoking a permit. In the opinion of opponents, all of the sexual activities listed are a crime if done in public or for compensation. Having this provision in a bodyworks establishment license and not any other County license is an insult to their profession.

The vast majority of the massage profession provides a valuable service to their customers; however, establishments with private spaces where the customer anticipates being touched, provides for a unique opportunity for sexual contact. In August, 2019, a Rockville massage establishment was closed for criminal sexual activity.<sup>5</sup> The closure occurred only after a 4 month police investigation and interviews with 60 customers. In another instance in November of this past year, a person was plead guilty of soliciting a massage therapist for sex.<sup>6</sup>

Bill 1-20 does not propose any changes to the current sexual activity provisions but it would include massage establishments within its scope. Criminal violations cover much of the activity sanctioned in bodyworks establishment licensing. Criminal law does not cover consensual activity conducted in private without compensation. Criminal activity requires proof beyond a reasonable doubt. Bill 1-20 is a civil matter with a lower standard of proof.

Staff recommends retaining the sexual activity provisions.

**Should the exemption for a “health care setting be better defined?**

Bill 1-20 as introduced would exempt “an individual in a health care setting under the supervision of a licensed medical doctor” from circumstances when a bodyworks establishment license would not be required. (Lines 341 – 342.) Testimony suggest that this was unclear. Neither the term “setting” nor the term “medial doctor” was defined. It was noted that a health care facility was a defined term in state law.<sup>7</sup>

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<sup>4</sup> “*Sexual activity* means any direct or indirect physical contact between persons intended to erotically stimulate either person or both persons or is likely to cause such stimulation. Sexual activity includes sexual intercourse, fellatio, cunnilingus, anal intercourse, masturbation, or manual stimulation.”

<sup>5</sup> <https://www.washingtonpost.com/crime-law/2019/08/13/maryland-spa-looked-unassuming-an-undercover-police-investigation-found-it-was-house-prostitution/>

<sup>6</sup> <https://www.nbcwashington.com/news/local/owner-of-930-club-anthem-seth-hurwitz-pleads-guilty-to-soliciting-massage-therapist-for-sex-acts/2090076/>

<sup>7</sup> (d)(1) “Health care facility” means:

(i) A hospital, as defined in § 19-301 of this title;

Staff recommended alternative text to respond to this criticism.

This Section does not apply to an individual in a health care facility as defined in §19-114(d) of the Health-General Article of the Annotated Code of Maryland...

**Should Police be allowed to enforce this chapter?**

The role of a police officer in bodyworks licensing was unclear according to testimony. Section 24-8B(c)(3) appears to give authority only to the Director of HHS or the Director's designee to inspect. The provision of the unamended existing code reads:

The Director must conduct a pre-licensing inspection of any bodywork establishment and may conduct other inspections necessary to enforce this Section. (Lines 380-382)

On the other hand, the next section appears to allow police officers to inspect:

Any person who operates a bodywork establishment *must permit a County police officer or the Director to enter the bodywork establishment at any time during operating hours*

The proposed amendment proposed by the Bill's sponsors would allow police offices to inspect in addition to the Director. (Line 381)

**Should Police inspections allowed under this Chapter be limited to enforcing "this Chapter"?**

A concern was expressed in testimony for a possible unconstitutional warrantless search<sup>8</sup> under the current code. The provision reads:

Any person who operates a bodywork establishment must permit a County police officer or the Director to enter the bodywork establishment at any time during operating hours.

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- (ii) A limited service hospital, as defined in § 19-301 of this title;
  - (iii) A related institution, as defined in § 19-301 of this title;
  - (iv) An ambulatory surgical facility;
  - (v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;
  - (vi) A home health agency, as defined in § 19-401 of this title;
  - (vii) A hospice, as defined in § 19-901 of this title;
  - (viii) A freestanding medical facility, as defined in § 19-3A-01 of this title; and
  - (ix) Any other health institution, service, or program for which Part II of this subtitle requires a certificate of need.

<sup>8</sup> The 4<sup>th</sup> Amendment of the constitution reads:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

There is no 4<sup>th</sup> Amendment problem. A warrant is not required, when the police are addressing possible civil violations by a business in areas open to the public, during regular business hours. There is no problem in clarifying why a police officer may be present. The proposed amendment to existing text would restrict police to only enforcing the provisions of the bodyworks licensing law. (Line 385)

### **What must an applicant for a bodyworks licensee do to get a license?**

Current requirements for a potential licensee includes health, age, criminal status, violations of law regarding a health occupation, sobriety, occupation history, and an immigrant's legal status and employability. Bill 1-20 did not change any of these requirements. Testimony questioned the wisdom of many of these. The following goes through most of the requirements of a licensee.

While the requirement for employees to be credentialed make it more difficult to have a bodyworks business, reducing the requirements for an establishment license holder would make it easier for the owner to qualify for an establishment license.

#### *Proof of good health (Line 411)*

Testimony questioned the definition of good health and what proof would be required. The sponsors recommend amending Bill 1-20 as introduced to delete this provision.

#### *Lack of a felony conviction (Line 416)*

A felony is a serious crime that carries a minimum jail sentence of one year. Punishments attached to felonies are strict. Not only does an individual serve a mandatory prison sentence, but some of their basic rights (right to vote, serve in the military, serve on a jury) are stripped.<sup>9</sup>

Many felonies (if not all) are also "crimes moral turpitude".<sup>10</sup> Committing these crimes would also prohibit the issuance of an establishment license. (Line 417)

Victims of human trafficking often run afoul of the law. Making past crimes a bar to the issuance of a bodyworks establishment would bar victims from this commercial opportunity.

For the purposes of discussion, the sponsors of Bill 1-20 recommend retaining the prohibition of felonies and deleting crimes involving moral turpitude.

#### *Violations of dangerous substances law (Line 419)*

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<sup>9</sup> Felonies include: Property crimes – these include burglary, larceny, arson, and theft, Violent crime – such as manslaughter, murder, robbery, assault, and forcible rape; A violation of liquor laws – such as sales to minors; Driving while impaired; Fraud, Weapons violations – such as carrying a concealed weapon or possessing a gun without proper licensure; Robbery; Domestic violence and child abuse; and Forgery

<sup>10</sup> Among the many specific offenses that the U.S. government and courts have determined to be CMTs in individual cases are:

Murder, voluntary manslaughter, involuntary manslaughter, rape, spousal abuse, child abuse, incest kidnapping, robbery, aggravated assault, mayhem, animal fighting, theft, fraud, conspiracy and attempt, or acting as an accessory to a crime if that crime involved moral turpitude.

The definition of a dangerous substance is changing over time and differs state to state. The sponsors recommend amending Bill 1-20 as introduced to delete this provision.

*Proof of citizenship or legal employable presence. (Lines 435-437)*

This requirement of current County law may be out of date. Executive Order 135-19 prohibits an agent or department from checking immigration status. The order states in Section 4:

No agent or department may condition the provision of County benefits, opportunities or services on matters related to citizenship or migration status unless required to do so by state or federal law or court order.

No matter what the Council thinks of the wisdom of this Executive Order, the Executive's order does not limit the Council's authority to establish laws.<sup>11</sup> The County Charter requires the Executive to faithfully execute the laws.<sup>12</sup> Having said that to establish the Council's authority, it is more likely than not that the Council agrees with the thrust of the Executive's order.

The sponsors of Bill 1-20 recommend deleting this requirement.

Whatever the Council decides to do on lines 411–437 concerning the issuance of a license, should be repeated in lines 452–465 concerning the revocation of a license.

### **Why should the Council approve the licensing provision as the Board of Health?**

State law allows the Council to approve resolutions as the Board of Health. These resolutions apply to municipalities and special taxing districts.<sup>13</sup> In the absence of this provision, uncredentialed

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<sup>11</sup> Even the order only limits an "agent" or "department" from conditioning a benefit such as a license. It does not limit the Council.

<sup>12</sup> Charter of Montgomery County, Article 2 Section 201.

<sup>13</sup> MD Health-Gen Code § 3-302 (2013)

- (a)
- (1) Except as provided in paragraph (2) of this subsection, each county board of health shall exercise the duties imposed by law on a board of health.
  - (2) The county board of health shall exercise those duties in each municipality or special taxing district in the county unless the municipality or district has a charter provision or ordinance that:
    - (i) Covers the same subject matter;
    - (ii) Is at least as restrictive as the provision that the county board is required to enforce; and
    - (iii) Includes provisions for enforcement.
- (b) In addition to the other duties provided by law, each county board of health shall:
- (1) Meet in May and October of each year and at any other time the board considers necessary;
  - (2) Coordinate its activities with the Department; and
  - (3) Report to the Department on the sanitary conditions of the county whenever the board considers it important and necessary to do so.
- (c)
- (1) Except as provided in paragraph (2) of this subsection, each county board of health may set any fee or charge in connection with its rules and regulations.
  - (2) A fee or charge for a service that is provided wholly or partly with State or federal funds that the Department administers is subject to approval and modification by the Secretary.

practitioners will be attracted to municipalities in unlicensed establishments. Preventing this from occurring is a matter of public health.

The unlicensed practice of reflexology can lead to many health concerns:

- circulatory problems in the feet
- blood clots or inflammation of leg veins
- gout
- foot ulcers
- fungal infections, like athlete's foot
- open wounds on hands or feet

Unlicensed massage can cause:

- directly cause new injuries, mostly bruises and nerve lesions
- aggravate existing injuries and chronic pain problems
- nerve damage
- rhabdomyolysis (too much protein released into the bloodstream from crushed muscle)

This packet contains:

Bill 1-20  
Legislative Request Report  
FEIS  
Board of Health Regulation

Circle #

1  
24  
25  
31



Bill No. 1-20  
Concerning: Health and Sanitation –  
Bodywork Establishments – Licensing  
- Amendments  
Revised: 2-12-2020 Draft No. 14  
Introduced: January 14, 2020  
Expires: July 14, 2021  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: July 1, 2021  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsors: Councilmember Rice and Council Vice President Hucker  
Co-Sponsors: Council President Katz and Councilmembers Navarro, Alborno, and Riemer

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**AN ACT to:**

- (1) amend code provisions concerning massage establishments;
- (2) expand the scope of bodywork establishments to include massage establishments;
- (3) require every individual performing bodywork services to be a certified massage therapist or registered massage practitioner;
- (4) require compliance with all County licensing requirements as a condition of building permits;
- (5) allow the revocation of use and occupancy permits for zoning and licensing violations; and
- (6) generally amend the provisions for bodywork establishments.

By amending

Montgomery County Code  
Chapter 8, Buildings  
Sections 8-26 and 8-28

Montgomery County Code  
Chapter 24, Health and Sanitation  
Sections 24-8 and 24-8B

**Boldface**

*Heading or defined term.*

Underlining

*Added to existing law by original bill.*

[Single boldface brackets]

*Deleted from existing law by original bill.*

Double underlining

*Added by amendment.*

[[Double boldface brackets]]

*Deleted from existing law or the bill by amendment.*

\* \* \*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*



25 [(a) *Definitions.* In this Section, terms that are defined in the state Health  
 26 Occupations Article have the same meaning, and the following words and  
 27 phrases have the following meanings:

- 28 (1) Massage has the same meaning as “massage therapy” under § 3-  
 29 5A-01 of the Health Occupations Article.
- 30 (2) Massage establishment: any business where any employee, agent  
 31 or contractor who is not a certified massage therapist or registered  
 32 massage practitioner under state law performs a massage.
- 33 (3) Director: The Director of the Department of Health and Human  
 34 Services, or the Director’s designee.
- 35 (4) Board: the Maryland State Board of Chiropractic Examiners.
- 36 (5) Department: the Department of Health and Human Services.]

37 [(b) *Scope.* This Section does not apply to:

- 38 (1) an individual with a license, registration, or other approval issued  
 39 by the Board to provide massage under § 3-5A-05 of the Health  
 40 Occupations Article;
- 41 (2) an athletic trainer who:
  - 42 (A) is certified by a nationally recognized athletic trainer  
 43 certification agency identified by the Director and works  
 44 under the supervision of a physician, while functioning in  
 45 the athletic trainer’s professional capacity;
  - 46 (B) is employed by an accredited educational institution, while  
 47 performing professional duties at that institution; or
  - 48 (C) is employed by a professional sports team, while treating  
 49 members of that team; and

50 (3) a business in which every person who performs massage is a  
51 certified massage therapist or registered massage practitioner  
52 under State law.]

53 [(c) *Massage establishment.*

54 (1) (A) Any massage establishment must have a license issued by  
55 the Director under this Section. The licensee is the owner of the  
56 establishment. If the owner is not an individual, the owner must  
57 designate on the application an individual as the owner's  
58 representative. The owner's representative must consent on the  
59 application to be so designated. The representative must accept any  
60 notice sent to the owner under this Section. If the owner does not  
61 pay any fine, penalty, or fee due under this Section, the Director  
62 may collect the fine, penalty, or fee from the owner's  
63 representative. The owner must not designate an individual as its  
64 representative under this subsection if the individual is not  
65 qualified to receive a manager's license under subsection (d).

66 (B) The licensee or a licensed manager must be on the premises  
67 at all times while the establishment is occupied.

68 (C) A person must not own or operate a massage establishment  
69 without obtaining a massage establishment license. This  
70 requirement may be enforced by the Director or the Police  
71 Department.

72 (D) The Director or the Police Department may close an  
73 unlicensed massage establishment until the business and  
74 each person owning or operating the business obtains a  
75 license under this Section.

- 76                   (2)    Except as otherwise provided in this Section, the Director must,  
77                   with the assistance of the Police Department, review each  
78                   application and issue a massage establishment license if:
- 79                   (A)    the applicant meets the requirements of this Section, is  
80                   qualified under standards set by Executive Regulation, and  
81                   completes a license application form provided by the  
82                   Director;
- 83                   (B)    the massage establishment facility meets minimum  
84                   standards set by Executive Regulation;
- 85                   (C)    the applicant pays an application fee and license fee; and
- 86                   (D)    the establishment complies with all applicable zoning,  
87                   health, fire prevention, and building laws and regulations.
- 88                   (3)    The Director must conduct a preclicensing inspection of any  
89                   massage establishment, and may conduct other inspections  
90                   necessary to enforce this Section.
- 91                   (4)    A massage establishment must meet minimum standards set by  
92                   regulation at all times.
- 93                   (5)    Any person who operates a massage establishment must not  
94                   perform or allow another person to perform a massage unless the  
95                   person who performs the massage:
- 96                   (A)    is a certified massage therapist or registered massage  
97                   practitioner under state law; or
- 98                   (B)    has a valid County massage worker's license.
- 99                   (6)    Any person who operates a massage establishment must permit a  
100                  County police officer or the Director to enter the massage

101 establishment at any time during operating hours, and at any other  
 102 time in an emergency or when the establishment is occupied.

103 (7) Any person who operates a massage establishment must not allow  
 104 a person of one gender to massage a person of another gender.  
 105 This restriction does not apply of the person who performs the  
 106 massage is a State-certified massage therapist or registered  
 107 massage practitioner.

108 (8) A massage establishment license has a term of one year and must  
 109 be renewed annually.

110 (9) (A) A massage establishment license must not be transferred  
 111 from one person to another.

112 (B) A massage establishment license must not be transferred  
 113 from a location to another location until a license is issued  
 114 for the new location.

115 (C) A massage establishment license applies to a single location  
 116 specified in the license.

117 (10) If an applicant for a massage establishment license does not own  
 118 the building where the establishment would be located, the  
 119 building owner must approve the use of the building as a massage  
 120 establishment on a form provided by the Director.]

121 [(d) *Massage establishment manager.*

122 (1) The licensee, if an individual, and any person who manages a  
 123 massage establishment in the absence of the licensee, including an  
 124 owner's representative designated under subsection (c)(1)(A),  
 125 must obtain a massage establishment manager's license from the  
 126 Director and renew the license each year.

- 127                   (2)    Except as otherwise provided in this Section, the Director must,  
128   with the assistance of the Police Department, review each  
129   application and issue a license if the applicant is qualified under  
130   this Section and the standards established by regulation. Each  
131   applicant must:
- 132   (A)    complete an application form provided by the Director;
  - 133   (B)    submit proof of good health required by the Director;
  - 134   (C)    pay the application and license fee;
  - 135   (D)    be at least 18 years old;
  - 136   (E)    have not been convicted of, pled guilty or nolo contendere  
137   to, or served any term of probation as a result of being  
138   charged with:
    - 139   (i)    a felony;
    - 140   (ii)   a crime involving moral turpitude;
    - 141   (iii)  violation of a controlled dangerous substances law;
    - 142    or
    - 143   (iv)  violation of any law regulating the practice of a health  
144    occupation;
  - 145   (F)    not habitually use any drug or alcoholic beverage to an  
146   extent that impairs professional performance;
  - 147   (G)    provide a passport-size photograph, fingerprints, and a list  
148   of the applicant's occupation or employment for the 3 years  
149   before filing the application; and
  - 150   (H)    if the applicant is not a United States citizen, provide  
151   evidence of legal presence and employability in the United  
152   States.]

153 [(e) *Massage worker.*

154 (1) Any person who performs massage for compensation and who is  
155 not a certified massage therapist or registered massage practitioner  
156 under state law must obtain a massage worker's license from the  
157 Director and renew the license each year. An individual may apply  
158 for a license under this subsection only if the individual is  
159 expressly exempt under § 3-5A-05(a)(2) of the Health  
160 Occupations Article from the certification and registration  
161 requirements of that section.

162 (2) Except as otherwise provided in this Section, the Director must,  
163 with the assistance of the Police Department, review each  
164 application and issue a license if the applicant is qualified under  
165 this Section and the standards established by regulation. Each  
166 applicant must:

- 167 (A) complete an application form provided by the Director;  
168 (B) submit proof of good health;  
169 (C) pay the application and license fee;  
170 (D) be at least 18 years old;  
171 (E) have satisfactorily completed at least 60 credit hours of  
172 education at an institution of higher education as defined by  
173 State law;  
174 (F) have successfully completed at least 500 hours of massage  
175 training provided by an organization approved by the  
176 Board; and



- 177 (G) have not been convicted of, pled guilty or nolo contendere  
 178 to, or served any term of probation as a result of being  
 179 charged with:  
 180 (i) a felony;  
 181 (ii) a crime involving moral turpitude;  
 182 (iii) violation of a controlled dangerous substances law;  
 183 or  
 184 (iv) violation of any law regulating the practice of a health  
 185 occupation;
- 186 (H) not habitually use any drug or alcoholic beverage to an  
 187 extent that impairs professional performance;
- 188 (I) provide a passport size photograph, fingerprints, and a list  
 189 of the applicant's occupation or employment for the 3 years  
 190 before filing the application; and
- 191 (J) if the applicant is not a United States citizen, provide  
 192 evidence of legal presence and legal employability in the  
 193 United States.
- 194 (3) A person who holds a license issued under this Section and who is  
 195 not a certified massage therapist or registered massage practitioner  
 196 under state law must not perform massage except as the agent or  
 197 employee of a massage establishment that has a valid County  
 198 license.
- 199 (4) A massage worker licensed under this subsection must only  
 200 massage persons of the worker's same gender.
- 201 (5) A massage worker's license must not be transferred from one  
 202 individual to another.]

203 [(f) *Fees.* The County Executive must set application and license fees by  
 204 Executive Regulation under method (3) that substantially cover the cost  
 205 of administering this Section.]

206 [(g) *Denial or Revocation of license.* The Director may refuse to issue a  
 207 license under this Section, and may suspend or revoke a license issued  
 208 under this Section, after a hearing for which reasonable notice has been  
 209 given, if the licensee or applicant:

- 210 (1) violates any provision of this Section;
- 211 (2) submits fraudulent information in support of a license application  
 212 under this Section;
- 213 (3) is convicted of, or pleads guilty or nolo contendere to, or is ordered  
 214 to serve a period of probation after being charged with:
  - 215 (A) a felony;
  - 216 (B) a crime involving moral turpitude;
  - 217 (C) violation of a controlled dangerous substance law; or
  - 218 (D) violation of any law regulating the practice of a health  
 219 occupation;
- 220 (4) habitually uses any drug or alcoholic beverage to an extent that  
 221 impairs professional performance; or
- 222 (5) is grossly negligent in the performance of massage.]

223 [(h) *Notice and opportunity for hearing.*

- 224 (1) Notice. After finding that one or more grounds for denial,  
 225 suspension, or revocation of a license could exist, the Director may  
 226 serve a written notice on the licensee or applicant in person or by  
 227 regular mail, postage prepaid, addressed to the person's last known  
 228 address as maintained in the Director's file. Service on that person

229 by mail is effective 3 days after mailing. The Director must also  
 230 post a written notice at a conspicuous place on the establishment  
 231 for which the license was or would be issued. The written notice  
 232 must, at a minimum:

233 (A) state that the Director has found that the licensee or  
 234 applicant may be subject to denial, suspension, or  
 235 revocation;

236 (B) identify the specific grounds for the Director's findings; and

237 (C) set a date for a hearing on denial of the application or  
 238 suspension or revocation of the license. The hearing must  
 239 be held at least 5 days after service of the Director's notice,  
 240 unless the parties agree to an earlier date.

241 (2) *Hearing.* The Director or a designee may conduct the hearing. At  
 242 the hearing, the licensee or applicant may present evidence and  
 243 witnesses to refute the grounds cited by the Director for denying  
 244 the application or suspending or revoking the license, and the  
 245 County and any other person may submit relevant evidence. The  
 246 relevant records of the Department are part of the hearing record.  
 247 Within 3 days after the hearing closes, the person conducting the  
 248 hearing must render a decision in writing, giving the reasons for  
 249 the decision. That decision is final and is subject to judicial review  
 250 under the Maryland rules for review of administrative decisions.

251 (3) *Failure to appear.* A licensee or applicant who after notice does  
 252 not appear at a hearing waives the right to a hearing and consents  
 253 to the action that the Director proposed in the notice. The Director

254 may deny the application or suspend or revoke the license as  
 255 proposed in the notice.

256 (4) *Notice and Effective Date of Suspension or Revocation.* The  
 257 Director's written decision must be posted at the office of the  
 258 Director and must be served on the licensee or applicant in person  
 259 or by regular mail, postage prepaid, addressed to the applicant or  
 260 licensee's last known address as maintained in the Department's  
 261 files. The Director must also post a written notice of the decision  
 262 at a conspicuous place on the establishment for which the license  
 263 was or would be issued. A suspension or revocation takes effect  
 264 on the day the Director's decision is delivered in person or posted,  
 265 whichever occurs first. To facilitate enforcement of this provision,  
 266 the Director may require the applicant or licensee to appear at the  
 267 Director's office at a specific time to receive a copy of the decision  
 268 and be prepared to surrender the license. If a licensee or applicant  
 269 does not appear to receive the Director's decision, the Director's  
 270 decision is effective on the date and time the licensee or applicant  
 271 was directed to appear.

272 (5) *Surrender of license and security.* When a license is suspended or  
 273 revoked, the Director must take custody of the suspended or  
 274 revoked license.]

275 [(i) Upon receipt of notice of a license revocation or suspension, unless  
 276 otherwise directed the licensee must, within 24 hours:

- 277 (1) place the license in the mail, postage prepaid, addressed to the
- 278 Department; or
- 279 (2) physically deliver the license to the Department.]

280 [(j) If the Department does not receive a suspended or revoked license within  
 281 48 hours after notification, excluding weekends or a legal holiday, or as  
 282 otherwise directed, the holder of the license violates this Section. In  
 283 addition to any other penalties that may be imposed, the director or Police  
 284 may:

- 285 (1) remove the revoked or suspended license from the business  
 286 location; and  
 287 (2) close the place of business until the person operating the business  
 288 obtains a license.]

289 [(k) *Appeals.*

- 290 (1) Any person aggrieved by the denial, suspension, or revocation of  
 291 any license under this Section may seek judicial review under the  
 292 Maryland rules for review of administrative decisions.  
 293 (2) The Director's decision to deny a license must not be stayed  
 294 pending appeal. Final administrative action that revokes or  
 295 suspends a license may be stayed pending appeal only if:  
 296 (A) the court finds that the public health, safety, or welfare will  
 297 not be endangered during the appeal; and  
 298 (B) a bond of \$100,000 is posted.]

299 [(l) *Penalty.* A person has committed a class A violation if the person:

- 300 (A) violates any provision of this Section; or  
 301 (B) submits fraudulent information in support of a license  
 302 application under this Section]

303 **24-8B. Bodywork Establishments.**

304 (a) *Definitions.* As used in this Section, the following words and phrases  
 305 have the following meanings:

306 *Bodywork* means the practice of using one's hands or another part of the  
307 body to apply pressure on an individual's fully clothed body or bare feet  
308 to affect the electromagnetic energy, energetic field, or energy meridians  
309 of the human body. Bodywork includes the practice of reflexology or  
310 acupressure.

311 *Bodywork establishment* means any business other than a business  
312 operated alone by a credentialed person [that]:

- 313 (1) that advertises bodywork or massage therapy services; or  
314 (2) where any employee, agent, or contractor performs bodywork or  
315 massage therapy service on an individual for compensation.

316 *Chief* means the Chief of Police or the Chief's designee.

317 *Director* means the Director of the Department of Health and Human  
318 Services or the Director's designee.

319 *Credentialed* means any person who is:

- 320 (1) either a Licensed Massage Therapist or a Registered Massage  
321 Practitioner as awarded by the State Board of Massage Therapy  
322 Examiners; or  
323 (2) certified to practice reflexology by the American Reflexology  
324 Certification Board or an equivalent certification determined by the  
325 Director; or  
326 (3) certified by the National Certification Commission for Acupuncture  
327 and Oriental Medicine or an equivalent certification determined by  
328 the Director.

329 *Licensee* means an individual owner of a bodywork establishment or an  
330 individual designated by the owner if the owner is not an individual.

331 Massage therapy means the practice defined in §6-101(f) of the Health  
 332 Occupations Article of the Annotated Code of Maryland.

333 *Sexual activity* means any direct or indirect physical contact between  
 334 persons intended to erotically stimulate either person or both persons or  
 335 is likely to cause such stimulation. Sexual activity includes sexual  
 336 intercourse, fellatio, cunnilingus, anal intercourse, masturbation, or  
 337 manual stimulation.

338 (b) *Scope.* This Section does not apply to:

339 (1) [an individual with a license, registration, or other approval issued  
 340 by the Maryland State Board of Chiropractic and Massage Therapy  
 341 Examiners to provide massage under §3-5A-05 of the Health  
 342 Occupations Article] an individual in a health care [[setting under  
 343 the supervision of a licensed medical doctor]] facility as defined in  
 344 §19-114(d) of the Health-General Article of the Annotated Code  
 345 of Maryland;

346 (2) an athletic trainer who:

347 (A) is certified by a nationally recognized athletic trainer  
 348 certification agency identified by the Director and works  
 349 under the supervision of a physician, while functioning in  
 350 the athletic trainer's professional capacity;

351 (B) is employed by an accredited educational institution, while  
 352 performing professional duties at that institution; or

353 (C) is employed by a professional sports team, while treating  
 354 members of that team]; or

- 355 (3) a business in which every person who provides services is a  
356 certified massage therapist or registered massage practitioner  
357 under State law].
- 358 (c) *Bodywork establishment.*
- 359 (1) *License required.* A bodywork establishment must have a license  
360 issued by the Director under this Section. The licensee must be the  
361 owner of the establishment. If the owner is not an individual, the  
362 owner must designate on the application an individual as the  
363 owner's representative. The owner's representative must consent  
364 on the application to be so designated. The representative must  
365 accept any notice sent to the owner under this Section. If the owner  
366 does not pay any fine, penalty, or fee due under this Section, the  
367 Director may collect the fine, penalty, or fee from the owner's  
368 representative.
- 369 (2) Except as otherwise provided in this Section, the Director must,  
370 with the assistance of the Police Department, review each  
371 application and issue a bodywork establishment license if:
- 372 (A) the applicant meets the requirements of this Section and  
373 completes a license application on a form provided by the  
374 Director;
- 375 (B) the bodywork establishment facility meets the minimum  
376 standards set by Executive Regulation;
- 377 (C) the applicant pays an application fee and license fee; and  
378 (D) the establishment complies with all applicable zoning,  
379 health, fire prevention, and building laws and regulations.



- 380 (3) The Director must conduct a pre-licensing inspection of any  
 381 bodywork establishment[,] and the Director or a Police Officer  
 382 may conduct other inspections necessary to enforce this Section.
- 383 (4) A bodywork establishment must [continue to] meet the minimum  
 384 standards set by regulation at all times.
- 385 (5) [[Any]] For the purpose of enforcing this Section, any person who  
 386 operates a bodywork establishment must permit a County police  
 387 officer or the Director to enter the bodywork establishment at any  
 388 time during operating hours[, and at any other time in an  
 389 emergency or when the establishment is occupied]].
- 390 (6) Any person who operates a bodywork establishment must not  
 391 allow a person to perform any sexual activity with another person  
 392 in the establishment.
- 393 (7) A bodywork establishment license has a term of one year and must  
 394 be renewed annually.
- 395 (8) A bodywork establishment license[[:;]]:
- 396 (A) must not be transferred from one person to another;
- 397 (B) must not be transferred from one location to another  
 398 location until a license is issued for the new location; and
- 399 (C) applies to a single location specified in the license.
- 400 (9) If an applicant for a bodywork establishment license does not own  
 401 the building where the establishment would be located, the  
 402 building owner must approve the use of the building as a bodywork  
 403 establishment on a form provided by the Director.
- 404 (10) Any person who performs [[bodywork or massage therapy]]  
 405 services at a bodywork establishment [[in the County must be

406 licensed or registered to practice massage therapy by the State  
 407 Board of Massage Therapy Examiners;]] must be credentialed.

408 (d) *Bodywork establishment licensee.*

409 (1) The licensee, if an individual, or an owner's representative  
 410 designated under subsection (c)(1), must:

411 ~~[(A) submit proof of good health required by the Director;]]~~

412 ~~[(B)] (A)~~ be at least 18 years old;

413 ~~[(C)] (B)~~ have not been convicted of, pled guilty or nolo  
 414 contendere to, or served any term of probation as a result of  
 415 being charged with a:

416 (i) felony;

417 (ii) ~~[[crime involving moral turpitude, including~~  
 418 ~~solicitation, prostitution, and related crimes;~~

419 (iii) violation of a controlled dangerous substances law;]]  
 420 or

421 ~~[[iv]]~~violation of any law regulating the practice of a  
 422 health occupation[;]].

423 ~~[(D)] (C)~~ not permit an individual to perform bodywork ~~[[or~~  
 424 ~~massage therapy]]~~ services in the establishment while under  
 425 the influence of a non-prescribed drug or alcoholic  
 426 beverage;

427 ~~[(E)] (D)~~ provide a passport-size photograph, fingerprints, and  
 428 a list of the individual's occupation or employment for the  
 429 3 years before filing the application; [and] and

430 ~~[(F)] (E)~~ submit proof that each individual performing  
 431 bodywork [[or massage therapy]] services at the

432 establishment is licensed or registered to perform massage  
 433 therapy by the State Board of Massage Therapy Examiners;  
 434 and credentialed.

435 [(F)][(G)]if the applicant is not a United States citizen, provide  
 436 evidence of legal presence and employability in the United  
 437 States.]]

438 (e) *Executive Regulations.* The Executive must adopt an Executive  
 439 Regulation under Method (2) establishing the minimum standards for a  
 440 bodywork establishment and the application process. The Executive  
 441 must set application and license fees by Executive Regulation under  
 442 Method (3) that substantially cover the cost of administering this Section.

443 (f) *Denial or Revocation of license.* The Director may refuse to issue a  
 444 license under this Section, and may suspend or revoke a license issued  
 445 under this Section, after a hearing for which reasonable notice has been  
 446 given, if the licensee or applicant:

- 447 (1) violates any provision of this Section;
- 448 (2) submits fraudulent information in support of a license application  
 449 under this Section;
- 450 (3) is convicted of, or pleads guilty or nolo contendere to, or is ordered  
 451 to serve a period of probation after being charged with:
  - 452 (A) a felony;
  - 453 (B) [[a crime involving moral turpitude, including solicitation,  
 454 prostitution, and related crimes;
  - 455 (C) violation of a controlled dangerous substance law;]] or  
 456 [(D)]violation of any law regulating the practice of a health  
 457 occupation;

458 (4) permits an individual to perform bodywork services in the  
459 establishment while under the influence of a non-prescribed drug  
460 or alcoholic beverage; [or]

461 (5) is grossly negligent in the performance of bodywork; or

462 (6) permits an individual to perform bodywork ~~[[or~~  
463 massage therapy]] services in the establishment who is not  
464 [[licensed or registered to perform massage therapy by the State  
465 Board of Massage Therapy Examiners]] credentialed.

466 (g) *Notice and opportunity for hearing.*

467 (1) *Notice.* After finding that one or more grounds for denial,  
468 suspension, or revocation of a license could exist, the Director may  
469 serve a written notice on the licensee or applicant in person or by  
470 regular mail, postage prepaid, addressed to the person's last known  
471 address as maintained in the Director's file. Service on that person  
472 by mail is effective 3 days after mailing. The Director must also  
473 post a written notice at a conspicuous place on the establishment  
474 for which the license was or would be issued. The written notice  
475 must, at a minimum:

476 (A) state that the Director has found that the licensee or  
477 applicant may be subject to denial, suspension, or  
478 revocation;

479 (B) identify the specific grounds for the Director's findings; and

480 (C) set a date for a hearing on denial of the application or  
481 suspension or revocation of the license. The hearing must  
482 be held at least 5 days after service of the Director's notice,  
483 unless the parties agree to an earlier date.

- 484 (2) *Hearing.* The Director or a designee may conduct the hearing. At  
485 the hearing, the licensee or applicant may present evidence and  
486 witnesses to refute the grounds cited by the Director for denying  
487 the application or suspending or revoking the license, and the  
488 County and any other person may submit relevant evidence. The  
489 relevant records of the Department are part of the hearing record.  
490 Within 3 days after the hearing closes, the person conducting the  
491 hearing must render a decision in writing, giving the reasons for  
492 the decision. That decision is final, subject to judicial review under  
493 the Maryland Rules for review of administrative decisions in the  
494 Circuit Court and the Court of Special Appeals.
- 495 (3) *Failure to appear.* A licensee or applicant who after notice does  
496 not appear at a hearing waives the right to a hearing and consents  
497 to the action that the Director proposed in the notice. The Director  
498 may deny the application or suspend or revoke the license as  
499 proposed in the notice.
- 500 (4) *Notice and Effective Date of Suspension or Revocation.* The  
501 Director's written decision must be posted at the office of the  
502 Director and must be served on the licensee or applicant in person  
503 or by regular mail, postage prepaid, addressed to the applicant or  
504 licensee's last known address as maintained in the Department's  
505 files. The Director must give the owner of the property, where  
506 the establishment is located, written notice of the decision by  
507 regular mail, postage prepaid, addressed to the landowner's last  
508 known address as maintained in the Maryland State Department of  
509 Assessments and Taxation. The Director must also post a written

510 notice of the decision at a conspicuous place on the establishment  
511 for which the license was or would be issued. A suspension or  
512 revocation takes effect on the day the Director's decision is  
513 delivered in person or posted, whichever occurs first. To facilitate  
514 enforcement of this provision, the Director may require the  
515 applicant or licensee to appear at the Director's office at a specific  
516 time to receive a copy of the decision and be prepared to surrender  
517 the license. If a licensee or applicant does not appear to receive the  
518 Director's decision, the Director's decision is effective on the date  
519 and time the licensee or applicant was directed to appear.

520 (5) *Surrender of license and security.* When a license is suspended or  
521 revoked, the Director must take custody of the suspended or  
522 revoked license.

523 (h) Upon receipt of notice of a license revocation or suspension, unless  
524 otherwise directed, the licensee must, within 24 hours:

525 (1) place the license in the mail, postage prepaid, addressed to the  
526 Department; or

527 (2) physically deliver the license to the Department.

528 (i) If the Department does not receive a suspended or revoked license within  
529 48 hours after notification, excluding weekends or a legal holiday, or as  
530 otherwise directed, the holder of the license violates this Section. In  
531 addition to any other penalties that may be imposed, the Director or the  
532 Chief may:

533 (1) remove the revoked or suspended license from the business  
534 location; and

535 (2) close the place of business until the person operating the business  
 536 obtains a license.

537 (j) *Appeals.*

538 (1) Any person aggrieved by the denial, suspension, or revocation of  
 539 any license under this Section may seek judicial review under the  
 540 Maryland Rules for review of administrative decisions in the  
 541 Circuit Court and the Court of Special Appeals.

542 (2) Except as provided in subsection (3), the Director’s decision to  
 543 deny a license must not be stayed pending appeal.

544 (3) Final administrative action that revokes or suspends a license may  
 545 be stayed pending appeal only if:

546 (A) the Court finds that the public health, safety, or welfare will  
 547 not be endangered during the appeal; and

548 (B) an appropriate bond is posted.

549 (k) *Penalty.* A person has committed a class A violation if the person:

550 (1) violates any provision of this Section; or

551 (2) submits fraudulent information in support of a license application  
 552 under this Section.

553 **Sec. 2. Effective Date**

554 This Act takes effect on July 1, 2021.

## LEGISLATIVE REQUEST REPORT

Bill 1-20

*Health and Sanitation – Bodywork Establishments - Licensing*

- DESCRIPTION:** Bill 1-20 would delete the provisions concerning massage establishments and expand the scope of bodywork establishments to include massage establishments. There are no County licensed massage establishments, and this would clean-up code provisions without reducing the activities of County concern. To be a licensed bodywork establishment, Bill 1-20 would require every individual performing bodywork services to be a certified massage therapist or registered massage practitioner. Bill 1-20 would also amend the County Code concerning building permits to require compliance with all County licensing requirements as a condition of building permits and allow the revocation of use and occupancy permits for zoning and licensing violations.
- PROBLEM:** The current requirements for bodywork establishments allow owners to use unqualified employees to physically manipulate their customer. In addition, the compliance with the County's licensing requirements is not currently within the enforcement authority of the Department of Permitting Services.
- GOALS AND OBJECTIVES:** To solve the described problem.
- COORDINATION:** Departments Health and Human Services and Permitting Services; State Board of Massage Therapy Examiners (required consultation)
- FISCAL IMPACT:** To be requested
- ECONOMIC IMPACT:** To be requested
- EVALUATION:** To be requested.
- EXPERIENCE ELSEWHERE:** To be researched.
- SOURCE OF INFORMATION:** Jeffrey L. Zyontz, Senior Legislative Analyst 240-777-7896
- APPLICATION WITHIN MUNICIPALITIES:** Bill 1-20 would be applicable within municipalities if it is approved as a Board of Health resolution.
- PENALTIES:** A violation of Section 24-8B is a class A violation. A license violation may result in revoking the establishment's use and occupancy permit.





ROCKVILLE, MARYLAND

MEMORANDUM

February 12, 2020

TO: Sidney Katz, President, County Council

FROM: Richard S. Madaleno, Director, Office of Management and Budget *RSM*  
Michael Coveyou, Acting Director, Department of Finance *mc*

SUBJECT: FEIS for Bill 1-20, Health and Sanitation – Bodywork Establishments –  
Licensing - Amendments

Please find attached the Fiscal and Economic Impact Statements for the above-referenced legislation.

RSM:cm

c: Andrew Kleine, Chief Administrative Officer  
Fariba Kassiri, Deputy Chief Administrative Officer  
Caroline Sturgis, Assistant Chief Administrative Officer  
Debbie Spielberg, Special Assistant to the County Executive  
Dale Tibbitts, Special Assistant to the County Executive  
Lisa Austin, Office of the County Executive  
Barry Hudson, Director, Public Information Office  
Raymond Crowel, Director, Department of Health and Human Services  
Rob Hagedoorn, Department of Finance  
Dennis Hetman, Department of Finance  
David Platt, Department of Finance  
Monika Coble, Office of Management and Budget  
Lindsay Lucas, Office of Management and Budget  
Chrissy Mireles, Office of Management and Budget  
Josh Watters, Office of Management and Budget

Fiscal Impact Statement  
Council Bill 1-20, Bodyworks Establishments – Licensing-Amendments

**1. Legislative Summary.**

Bill 1-20 requires every individual performing bodywork services in the County to be a certified massage therapist or registered massage practitioner. It further requires compliance with all County licensing requirements as a condition of building permits and allows the revocation of use and occupancy permits for zoning and licensing violations.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

Revenues

Any increase in County revenues would depend on the number of facilities that would be licensed. According to the Department of Health and Human Services, there are 30 known bodyworks facilities in the County. At a \$500 annual license fee, the bill would generate up to \$15,000 for these facilities. If there are additional unlicensed facilities that become licensed, then the amount of revenue generated by the bill would increase.

Expenditures

The legislation could cost up to \$510,591 on an annualized basis in the first year of implementation. This amount includes \$470,591 in personnel costs for six positions plus \$40,000 in one-time operating expenses and to purchase a vehicle for inspections. Implementing the bill could require six new positions, one Program Manager II (Gr. 25); one Office Services Coordinator (Gr. 16); two Police Aide positions (Gr. 15); and two Community Services Aide II positions (Gr. 16).

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

	FY 21	FY22	FY 23	FY 24	FY25	FY 26
Personnel Costs	\$470,591	\$480,003	\$489,603	\$499,395	\$509,383	\$519,570
Operating Expenses	\$40,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
<b>Total</b>	<b>\$510,591</b>	<b>\$485,003</b>	<b>\$494,603</b>	<b>\$504,395</b>	<b>\$514,383</b>	<b>\$524,570</b>
Revenues	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000

These numbers assume a 2% annual increase in personnel costs, and the purchase of a vehicle and one-time office equipment in FY21.

- 4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable.

- 7. An estimate of the staff time needed to implement the bill.**

In order to adequately enforce bodyworks licensing requirements, additional staffing would be required. Fully ensuring compliance with the regulations would require four annual unannounced inspections in addition to the pre-opening inspections. Given the varying hours of operation for these facilities, the staffing requirements necessary to support enforcement activities would be 16 hours per day, 7 days per week. The extended hours are necessary to seek out and identify covert, unlicensed facilities operating during non-business hours and weekends. Two hundred possible operations have been identified that are not currently registered and require inspection. For safety purposes, teams must consist of a minimum of two personnel. Active surveillance and inspection must take place over periods beyond the typical eight-hour workday.

A Program Manager II would supervise two bodyworks surveillance teams. Teams would consist of one Police Aide and one Community Services Aide II that would search Montgomery County using direct field observation, social media, advertisements and other sources, and conducting periodic unannounced inspections of bodywork establishments. The Police Aide would conduct routine inspection for code and regulation compliance while the Community Services Aide would provide education and social services referrals to employees, trafficked persons, management and clients. An Office Services Coordinator position would be necessary to perform administrative duties, including processing applications and licenses and scheduling inspections.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

See number 7.

- 9. An estimate of costs when an additional appropriation is needed.**

See number 3.

**10. A description of any variable that could affect revenue and cost estimates.**

If more facilities become regulated, then amount of revenues would adjust accordingly.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

The exact number of illicit, unlicensed, and unidentified operations throughout the County are unknown and difficult to identify.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Not applicable.

**13. Other fiscal impacts or comments.**

Not applicable.

**14. The following contributed to and concurred with this analysis:**


Clark Beil, Sr. Administrator, Licensure and Regulatory Services

Charlene Hicks, Administrative Services Coordinator, Public Health Services

Adriene Schifrien, Human Resource Manager, Public Health Services

James Bridgers, PhD Deputy Health Officer, Public Health Services

Lindsay Lucas, Office of Management and Budget

  
\_\_\_\_\_  
Richard S. Madaleno, Director  
Office of Management and Budget

2/14/2020  
Date

**Economic Impact Statement**  
**Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing -**  
**Amendments**

**Background.** This legislation would:

- Amend code provisions concerning massage establishments;
- Expand the scope of bodywork establishments to include massage establishments;
- Require every individual performing bodywork services to be a certified massage therapist or registered massage practitioner;
- Require compliance with all County licensing requirements as a condition of buildings permits;
- Allow the revocation of use and occupancy permits for zoning and licensing violation.

The purpose of Bill 1-20 would expand the definition of bodywork establishments to include massage establishments. Currently, there are no County licensed massage establishments. The legislation would amend specific code provisions without reducing current business activities.

**1. The sources of information, assumptions, and methodologies used.**

There are no sources of information, assumptions, and methodologies used by the Department of Finance in the preparation of the economic impact statement.

**2. A description of any variable that could affect the economic impact estimates.**

The legislation would amend specific code provisions that have no impact on business activities.

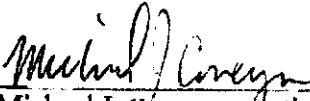
**3. The Bill's positive or negative effect, if any on employment, spending, saving, investment, incomes, and property values in the County.**

Bill 1-20 would have no measurable economic effect on employment, spending, saving, investment, incomes, and property values in the County.

**4. If a Bill is likely to have no economic impact, why is that the case?**

Please see paragraph 2 and 3.

**5. The following contributed to and concurred with this analysis: David Platt and Rob Hagedoorn, Finance;**

  
\_\_\_\_\_  
Michael J. Coveyou, Acting Director

2/10/20  
Date

**Economic Impact Statement**  
**Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing -**  
**Amendments**

Department of Finance

Resolution No.: \_\_\_\_\_  
Introduced: January 14, 2020  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE MONTGOMERY COUNTY BOARD OF HEALTH**

---

Lead Sponsor: Councilmember Rice and Council Vice President Hucker

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**SUBJECT:** Resolution to adopt Bill 1-20, Health and Sanitation – Bodywork Establishments – Licensing – Amendments as a Board of Health Regulation.

**Background**

1. County Code §2-65, as amended, provides that the County Council is, and may act as, the County Board of Health, and in that capacity may adopt any regulation which a local Board of Health is authorized to adopt under state law.
2. Maryland Code Health-General Article §3-202 authorizes the County Board of Health to adopt rules and regulations regarding any nuisance or cause of disease in the County.
3. On {DATE}, the Council held a public hearing on this regulation. As required by law, each municipality in the County and the public were properly notified of this hearing.
4. On {DATE}, the County Council enacted Bill 1-20, Health and Sanitation - Bodywork Establishments - Licensing. Bill 1-20 require every individual performing bodywork services to be a certified massage therapist or registered massage practitioner.
5. The County Council, sitting as the Board of Health, finds after reviewing the evidence in the record that requiring every individual performing bodywork services to be a certified massage therapist or registered massage practitioner as required by this Regulation is necessary to protect the health of County residents.

**Action**

The County Council for Montgomery County, Maryland, sitting as the County Board of Health, approves the following resolution:

1. The provisions of Section 24-8B of the Montgomery County Code, as added by Bill 1-20, Health and Sanitation - Bodywork Establishments – Licensing - Amendments, are adopted as a Board of Health regulation. A copy of Bill 1-20 is attached to this resolution.
2. This resolution takes effect 90 days after adoption.

This is a correct copy of Council action.

---

Selena Mendy Singleton, Esq.,  
Clerk of the Council

Date