


Government of the District of Columbia  
Office of the Chief Financial Officer



**Fitzroy Lee**  
Acting Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Fitzroy Lee  
Acting Chief Financial Officer 

**DATE:** March 3, 2022

**SUBJECT:** Fiscal Impact Statement – Medical Necessity Restroom Access Act of 2022

**REFERENCE:** Bill 24-25, Committee Print as provided to the Office of Revenue Analysis on February 14, 2022.

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**Conclusion**

Funds are not sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill. The bill will cost \$263,000 in fiscal year 2022 and \$1.08 million over the financial plan to implement.

**Background**

The bill requires retail establishments that have a customer or employee toilet facility to allow individuals with eligible medical conditions<sup>1</sup> to access the toilet if a public restroom is not available. The retail establishment must provide access if:

- Individuals provide proof of an eligible medical condition;
- Individuals are lawfully on the premises within normal business hours; and,
- More than three employees are working at the time when an individual requests access.

The toilet facility must be located in an area where providing access would not create an obvious health or safety risk to the requesting individual or an obvious security risk to the retail

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<sup>1</sup> Includes Crohn's disease, ulcerative colitis, any other inflammatory bowel disease, irritable bowel syndrome, the use of an ostomy device, or any other diagnosed medical condition, including pregnancy, that would require immediate access to a toilet facility.

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establishment. Retail establishments are not required to make any physical changes to a customer or employee toilet facility or provide general public access.

The bill requires the Office of Human Rights (OHR) to provide on its website information about restroom access requirements and make available a downloadable, one-page flyer outlining these requirements. The Department of Consumer and Regulatory Affairs (DCRA) must include information about these requirements any time a business applies for or renews a business license.

OHR must also develop a Medical Necessity Restroom Access (MNRA) Portal by January 1, 2023 that allows medical professionals to apply for and receive MNRA certificates on behalf of individuals with eligible medical conditions. Medical professionals must submit a signed attestation stating that an individual has an eligible condition. Physicians must be able to print the MNRA certificate immediately upon completion of an application. MNRA certificates must contain the name of the card holder, date of issuance, and expiration date. OHR must maintain a secure database that stores certificate information.

An owner of a retail establishment or employee of the owner that willfully or recklessly violates reasonable access to restroom facilities will receive a warning for the first violation and be subject to a civil penalty of \$100 for every subsequent violation. Individuals may file a complaint with OHR to see enforcement actions.

### **Financial Plan Impact**

Funds are not sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill. The bill will cost \$263,000 in fiscal year 2022 and \$1.08 million over the financial plan to implement.

OHR must hire additional employees to conduct compliance monitoring and to issue warnings and fines to businesses that are found to violate the law. These employees include one part-time Attorney (permanent), one full-time Investigator (permanent), and one part-time Outreach Specialist (term for fiscal years 2022 and 2023). The salary and fringe benefit costs for these positions totals \$83,000 in fiscal year 2022 and \$751,000 over the financial plan.

OHR also requires additional resources to establish an online MNRA Portal. The portal will cost \$175,000 in fiscal year 2022 and will require ongoing maintenance cost of \$44,000 annually beginning in fiscal year 2023. The total cost of developing and maintaining the MNRA Portal is \$307,000 over the four year financial plan.

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Bill 24- Medical Necessity Restroom Access Act of 2022 Total Costs					
	FY 2022 <sup>(b)</sup>	FY 2023	FY 2024	FY 2025	Total
Salary <sup>(a)</sup>	\$67,000	\$204,000	\$163,000	\$166,000	\$600,000
Fringe <sup>(c)</sup>	\$16,000	\$51,000	\$41,000	\$43,000	\$151,000
Portal Development and Maintenance <sup>(c)</sup>	\$175,000	\$44,000	\$44,000	\$44,000	\$307,000
Outreach/Supplies	\$5,000	\$5,000	\$5,000	\$5,000	\$20,000
Total	\$263,000	\$304,000	\$253,000	\$258,000	\$1,078,000

Table Notes:

- (a) Assumes 0.5 Grade-14, Step-5 Attorney each year, one Grade-12, Step-5 Investigator each year, and 0.5 Grade-12, Step-5 Outreach Specialist (fiscal years 2022 and 2023 only). Assumes cost growth of 1.75 percent.
- (b) Assumes start date of June 1, 2022.
- (c) Assumes fringe rate of 24.2 percent and a growth rate of 2.375 percent.