

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3408-04  
Bill No.: HCS No. 2 for HB 1644  
Subject: Mental Health; Crimes and Punishment  
Type: Original  
Date: April 7, 2010

Bill Summary: The proposal includes self-defense and defense of others as an affirmative defense to crimes involving mistreatment of patients.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$135,208)	(\$144,853)	(\$149,199)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$135,208)</b>	<b>(\$144,853)</b>	<b>(\$149,199)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
General Revenue	2	2	2
<b>Total Estimated Net Effect on FTE</b>	<b>2</b>	<b>2</b>	<b>2</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Administration – Administrative Hearing Commission, Department of Corrections, Department of Health and Senior Services, and the Office of the State Public Defender** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (HCS for HB 1644, LR # 3408-03), officials from the **Department of Labor and Industrial Relations** and the **Office of Prosecution Services** assumed the proposal would have no fiscal impact on their agencies.

Officials from the **Office of the Attorney General** assume any potential costs arising from this proposal can be absorbed within existing resources.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Mental Health (DMH)** assume the bill provides an exception to the crime of “patient, resident or client abuse or neglect” if a person acts in self defense or in defense of others in Section 630.155. It also provides that any person acting in self defense or defense of others in the course of employment and not otherwise in violation of the section, shall not be terminated. It further allows for the employment record of such individual to be expunged.

The proposal includes an additional administrative hearing process by the DMH for determining whether a person acts in self defense or defense of others.

Consumers residing in psychiatric and habilitation facilities frequently exhibit aggressive/assaultive behaviors towards themselves and others. DMH employees are trained and retrained on a variety of techniques designed to de-escalate these behaviors and to avoid the necessity of engaging in a physical restraint of the consumer. Employees are also trained in how to physically contain and restrain consumers should de-escalation techniques fail. Research has repeatedly shown that physical response may raise the chances for severe injury to both the staff and the consumer dramatically.

ASSUMPTION (continued)

The requirement for an administrative hearing to determine whether a person acts in self defense or in defense of others may result in significant additional fiscal impact for the DMH. In FY08 and FY09, the DMH completed 368 and 279 investigations, respectively, where there was an allegation of physical abuse. The DMH estimates two (2) new FTE Hearing Administrators (at \$43,344 per year) and associated expense and equipment funding will be needed to handle the extra cases that may require a hearing. Therefore, the fiscal impact to the DMH would be a cost of \$135,208.

**Oversight** has adjusted the Department of Mental Health's equipment estimates to reflect the purchase of equipment in FY 2011, and no equipment cost in subsequent years.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Mental Health</u>			
Personal Service	(\$74,407)	(\$91,967)	(\$94,726)
Fringe Benefits	(\$39,019)	(\$48,227)	(\$49,674)
Equipment and Expense	<u>(\$21,782)</u>	<u>(\$4,659)</u>	<u>(\$4,799)</u>
<u>Total Costs – DMH</u>	<u>(\$135,208)</u>	<u>(\$144,853)</u>	<u>(\$149,199)</u>
FTE Change – DMH	2 FTE	2 FTE	2 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
	<b><u>(\$135,208)</u></b>	<b><u>(\$144,853)</u></b>	<b><u>(\$149,199)</u></b>
Estimated Net FTE Change for General Revenue Fund	2 FTE	2 FTE	2 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

The proposed legislation specifies that a person will not be guilty of the crime of patient, resident, or client abuse or neglect if when acting in self defense or in defense of others he or she beats, strikes, or injures a person, patient, resident, or client of a mental health or residential facility. Any person acting in self defense or defense of others in the course of employment and not otherwise in violation of this section, shall not be terminated. It further allows for the employment record of such individual to be expunged. (Section 630.155)

The proposal includes an administrative hearing process by the Department of Mental Health to determine whether a person acts in self defense or in defense of others. (Section 1)

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of Administration  
    – Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Mental Health  
Department of Corrections  
Department of Health and Senior Services  
Department of Labor and Industrial Relations  
Office of Prosecution Services  
Office of the State Public Defender



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April 7, 2010

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