

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4162-01
Bill No.: SB 518
Subject: Department of Corrections; Courts; Crimes and Punishment; General Assembly;
 Governor and Lt. Governor; Judges; Law Enforcement Officers and Agencies;
 Mental Health Department; Probation and Parole
Type: Original
Date: February 17, 2012

Bill Summary: This proposal creates a mental health assessment pilot program for criminal offenders.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
 This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Federal	Unknown	Unknown	Unknown
Total Estimated Net Effect on <u>All</u> Federal Funds	Unknown	Unknown	Unknown

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

- 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).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Mental Health (DMH)** state this legislation creates a 120 day mental health assessment unit for certain offenders who may qualify for community psychiatric rehabilitation services. This would provide an opportunity for offenders who are severely mentally ill to be supervised and treated in the community rather than being incarcerated for long periods of time.

In FY 2011, the average Community Psychiatric Rehabilitation (CPR) cost was estimated at \$4,729 (\$1,730 General Revenue and \$2,999 Federal) based on the average number of treatment months of 7.38 multiplied by the monthly cost per client of \$640.83. It is unknown how many assessment units will be created within the Department of Corrections and how many offenders will be released from the pilot program to community supervision and mental health services.

DMH would treat the small number of initial referrals within the limits of its existing appropriation for community-based services, and balanced against the needs of other priority populations. If the assessment program eventually results in permanent closure of a DOC housing unit and the DMH General Revenue cost for CPR of \$1,730 per person can be offset with DOC General Revenue savings, there will be no cost to DMH for program growth.

In response to a similar proposal from 2011, officials from the **Department of Corrections (DOC)** state this bill authorizes the DOC to establish a pilot program for an offender mental health assessment process. The DOC anticipates an Unknown positive fiscal impact if this bill were passed into law. Offenders who previously would have been incarcerated would be released on probation after completing the 120-day mental health assessment and treatment program. Normally, terms of incarceration require offenders to serve more than a 120-day prison term. In summary, fiscal impact for the DOC is a positive Unknown amount.

Oversight assumes this proposal authorizes a pilot program only within participating counties. Oversight assumes the pilot program would result in a net negative fiscal impact to the state; however, Oversight assumes there would not be a large enough number of offenders in the pilot program to cost the state over \$100,000 in any of the first three years.

ASSUMPTION (continued)

According to the Department of Corrections, the annual cost for incarceration is \$6,160 per inmate, while the annual cost for probation and parole is \$1,869 per offender. If an offender is released on probation after the 120 day assessment period and participates in the Community Psychiatric Rehabilitation (CPR) program, the state would realize a savings of \$4,291 (\$6,160 - \$1,869) within the DOC; however, the state may realize an corresponding cost of \$4,729 within the DMH (average cost of the CPR program in FY 2011). The net fiscal impact of the two agencies would be a loss of \$438. According to the DMH website, the CPR program is a Medicaid supported program; therefore, the federal government would pay approximately 60 percent of the costs for eligible clients.

Oversight assumes there are various unknowns within this proposal that make the determination of a fiscal impact difficult, including:

- How many counties will participate in the pilot program;
- How many motions would be filed by prosecutors to request that an offender participate in the pilot program;
- How many of these motions would be accepted by judges;
- After the initial 120 day mental health assessment, the sentencing court may release the offender on probation;
- Will the offender qualify for Medicaid reimbursement from the Federal Government. Roughly 35 offenders within the CPR program would have to be eligible for the 60% Medicaid reimbursement to reach \$100,000 per year ($\$100,000 / (\$4,729 \times 60\%)$) in federal reimbursement.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE			
<u>Savings</u> - Department of Corrections			
Offenders who previously would have been incarcerated would be released on probation after completing the 120 day mental health assessment and treatment program	Unknown	Unknown	Unknown
<u>Costs</u> - Department of Mental Health			
Offenders within the pilot program now under the Community Psychiatric Rehabilitation program	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	<u>(Unknown - less than \$100,000)</u>	<u>(Unknown - less than \$100,000)</u>	<u>(Unknown - less than \$100,000)</u>
FEDERAL FUNDS			
<u>Income</u> - Department of Mental Health			
Potential 60% Medicaid reimbursement for eligible clients within the CPR program	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO FEDERAL FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This proposal allows the Department of Corrections to establish a three-year pilot program in which judges in participating counties may send a criminal offender, upon a motion by a prosecutor, to the Department of Corrections for 120 days for mental health assessment and treatment. The victim must be given notice and an opportunity to be heard before the judge rules on the motion.

At the end of the 120 days, the department must send an assessment report to the sentencing court, which may release the offender on probation. The state probation and parole officer for the offender must work with the Department of Mental Health to enroll eligible offenders into Community Psychiatric Rehabilitation programs.

Offenders are not eligible for the pilot program who have been found guilty of, or plead guilty to, second-degree murder, forcible or first-degree statutory rape, forcible or first-degree statutory sodomy, first degree child molestation that is classified as a class A felony, or any other offense that does not allow probation or parole. Those found to be predatory sexual offenders are also ineligible.

The directors of the Departments of Corrections and Mental Health are to report to the Governor and the General Assembly by December 31, 2015 on whether the program should be statewide.

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

Department of Corrections
Department of Mental Health
Office of Prosecution Services
Office of the State Courts Administrator



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