

## **Department of Planning and Budget**

### **2008 Fiscal Impact Statement**

**1. Bill Number:** SB440

House of Origin    ☐    Introduced    ☒    Substitute    ☐    Engrossed  
Second House       ☐    In Committee    ☐    Substitute    ☐    Enrolled

**2. Patron:**        McEachin

**3. Committee:** Courts of Justice

**4. Title:**            Mentally ill defendants; treatment and hospitalization.

**5. Summary:** Mentally ill defendants; treatment and hospitalization. Establishes a new standard for hospitalizing mentally ill criminal defendants. Hospitalization may occur when the defendant has a mental illness and there exists a substantial likelihood that, as a result of that mental illness, the defendant will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm. Under current law the standard is "imminently dangerous to himself or others." The provision applies to pretrial, after conviction but before sentencing, and after sentencing. The bill specifies that an employee of the community services board must do the evaluation face-to-face or its designee who is skilled in the assessment and treatment of mental illness and has completed a certification program approved by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

**6. Fiscal Impact Estimates:** Preliminary

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:** Initial review of the introduced bill indicated the proposed language would increase the number of admissions for criminal defendants court-ordered to DMHMRSAS facilities for emergency treatment by 10%, or about 35 individuals. This would be an increase for both those in jail and would newly apply to those offenders (bonded defendants) not in a jail setting at the time the order is written. The cost associated with the initial projection was \$647,744. Although this is a valid projection of the potential increase with known data, actual experience is needed to define the impact of this language change. However, although the substitute bill language does not change the impact of the criteria, the fiscal impact is revised to indicate that without actual experience, the amount of funds needed to implement this language is indeterminate. It is anticipated that funds included in the Governor's budget for jail diversion services (\$3.0 million per year for 2008-2010 Biennium) will be used for the anticipated increase in admissions. In addition, the substitute bill language requires in-person or 2-way video and audio communications evaluations by a CSB employee or designee. These are typically performed as an emergency service. The Governor's introduced budget added \$3.0 million for the 2008-10 biennium for emergency services which should provide sufficient resources to perform these evaluations.

For reference, the introduced bill's impact was based on data for FY2001 through FY 2007 from the Department's Forensic Information Management System (FIMS) which showed a yearly average of 353 emergency treatment – jail transfer admissions each year with an average length of stay of 32 days. Of these 353, 36% (126) were admitted to the maximum security forensic program at Central State Hospital and 64% (227) were admitted to civil programs at those state hospitals that admit jail transfers. Based on this data and polling of forensic coordinators and clinicians, the increase in jail transfer admission rate would result in 35 (353 x 10%) additional admissions. Using per diem rates of \$717 for the maximum-security unit (CSH) and a civil unit per diem of \$506, projected cost of these additional admissions is \$647,744.

<b>Maximum Security Unit</b>		
Projected increased admissions	35 x 36 %	12 admissions
Projected increased bed days	12 x 32	384 days
Projected increased cost of bed days	384 x \$717	\$275,328
<b>Civil Units</b>		
Projected increased admissions	35 x 64%	23 admissions
Projected increased bed days	23 x 32	736 days
Projected increased cost of bed days	736 x \$506	\$372,416
Estimated total cost increase per annum		\$647,744

**9. Specific Agency or Political Subdivisions Affected:** Department of Mental Health, Mental Retardation and Substance Abuse Services, Community Services Boards

**10. Technical Amendment Necessary:** No

**Date:** 2/4/2008 dpb

**Document:** G:\FY2008\FIS\Vtech\Agency FIS\SB440s1.Doc

cc: Secretary of Health and Human Resources