

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: HB1933H1

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Hope

3. Committee: Senate Committee on Rehabilitation and Social Services

4. Title: Medical and mental health treatment for prisoners incapable of giving consent

5. Summary: The substitute bill establishes a process for a sheriff or administrator in charge of a local or regional correctional facility to petition a court to authorize medical or mental health treatment for a prisoner in such facility who is incapable of giving informed consent for such treatment. The bill provides that the treatment ordered may be provided within a local or regional correctional facility if such facility is licensed to provide such treatment but prior to authorizing treatment, the court must provide an attorney for the prisoner and find no other person has legal authority under the Health Care Decisions Act or other applicable law to authorize the proposed treatment. If statutory procedures are followed, the service provider does not have liability based on lack of consent or lack of capacity to consent unless there is injury or death resulting from gross negligence or willful and wanton misconduct. The bill also provides that the all fees and expenses will be paid by the Commonwealth and reimbursed by the prisoner unless it creates undue hardship or if there was no good cause for his admission.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Indeterminate (see Item 8)

8. Fiscal Implications: One requirement of the bill is for the courts to appoint an attorney for the prisoner prior to authorizing treatment. If the prisoner is determined to be indigent, the expense of appointing an attorney would be borne by the Criminal Fund. According to the Office of the Executive Secretary of the Supreme Court (“OES”), it is unclear as to how many instances this provision would be utilized; therefore, the fiscal impact on the court system cannot be determined.

The bill also requires the sheriff or administrator in charge of a local or regional correctional facility to follow the protocol outlined in the bill when seeking to administer medical or mental health treatment to a prisoner who is incapable of giving informed consent. According to the Compensation Board, implementing the protocol is not expected to create a material fiscal impact.

9. Specific Agency or Political Subdivisions Affected: Courts, Sheriffs, local and regional jails

10. Technical Amendment Necessary: No

11. Other Comments: None