

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** SB840

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

**2. Patron:** Ebbin

**3. Committee:** Judiciary

**4. Title:** Insanity; persons acquitted.

**5. Summary:** Makes various changes to the provisions regarding confinement hearings and conditional release procedures for persons who have been acquitted of a violent felony by reason of insanity. Under current law, such provisions do not distinguish between persons acquitted of a violent felony or any other felony offense.

**6. Budget Amendment Necessary:** See Item 8.

**7. Fiscal Impact Estimates:** Indeterminate, See Item 8.

**8. Fiscal Implications:** Currently, all individuals adjudicated not guilty by reason of insanity (NGRI) are hospitalized in Department of Behavioral Health and Developmental Services (DBHDS) hospitals. This legislation would change the process to release individuals previously adjudicated not guilty by reason of insanity for a violent offense.

If such an acquittee petitions for release and/or the state hospital evaluator recommends release at the time of the annual recommitment hearing, this bill would require the court to appoint a psychiatrist or clinical psychologist to evaluate whether the individual continues to require hospitalization. The clinician, who cannot be an employee of DBHDS, would have 45 days to complete the evaluation, during which time the individual would remain in DBHDS custody. If the individual was previously adjudicated NGRI on an offense that was not a violent crime, then a psychiatrist or psychologist who has not treated the acquittee must be appointed to perform this evaluation.

If the commissioner of DBHDS petitions for the release of someone adjudicated NGRI for a violent offense, this legislation requires the court appoint a private evaluator to conduct the aforementioned assessment. No second evaluation would be necessary if the acquittee was adjudicated NGRI for an offense that was not violent.

The legislation would also prevent any violent NGRI acquittee from being placed on conditional release unless the court finds that the release would not present undue risk to public safety.

This legislation would require some individuals for whom the Commissioner is petitioning release to remain in a state hospital for a longer period. State mental health hospitals are currently at or over capacity. Any increase in the number of days an individual must stay in the facility will impact the availability of beds for others in need of hospitalization, such as those individuals under temporary detention orders, and will exacerbate existing capacity issues. DBHDS petitions for the release of an average of 108 NGRI acquittees each fiscal year and an estimated approximately 70 percent of these individuals have offenses that this legislation categorizes as “violent” and would require the appointment of a private evaluator. It is assumed that appointing this evaluator, completing the evaluation, and scheduling a follow up hearing will take a minimum of 60 days. At a minimum, this would tie up an additional 4,560 additional state hospital bed days.

Using this set of assumptions, it is likely that current capacity would be insufficient to retain these individuals in state hospitals and still meet other Code-mandated requirements, such as accepting jail transfers and acting as the bed of last resort for individuals under a temporary detention order. This legislation may require additional beds be added at state facilities in order to accommodate the increased census. The average cost of operating a state mental health facility bed is approximately \$285,000 per year. Any additional beds that need to be added would require additional general fund support.

Additionally, the reimbursement rate established by the Supreme Court for these evaluations is \$500 per evaluation. To conduct additional evaluations on the assumed 76 NGRI acquittees identified above, an additional \$38,000 would be required for the Criminal Fund per year.

**9. Specific Agency or Political Subdivisions Affected:** Department of Behavioral Health and Developmental Services, State Hospitals, Criminal Fund.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.