

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB1050

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

2. Patron: Deeds

3. Committee: Education & Health

4. Title: Hospitals; custody of person subject to emergency custody order, regulations.

5. Summary: Extends the maximum period of time during which a person may be involuntarily held pursuant to an emergency custody order from eight hours, or in some cases 12 hours, to 24 hours and requires the Board of Health to include in regulations governing hospitals a requirement that every hospital be licensed for and actually capable of accepting from law enforcement the transfer of custody of a person who is the subject of an emergency custody order.

6. Budget Amendment Necessary: See Item 8.

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

8. Fiscal Implications: This legislation extends the maximum period of emergency custody under an emergency custody order (ECO) from eight hours to 24 hours. An individual could remain in emergency custody for up to 24 hours from the time of execution of the order before needing to seek a temporary detention order (TDO). This bill eliminates the section of the Code that allows, in cases where the state hospital is the designated location for the TDO, the state hospital and CSB to continue to search for an alternate location for an additional four hours. The legislation also requires all hospitals licensed by the state to provide the level of security necessary to accept a transfer of custody of an individual under an ECO and for each hospital to enter into a memorandum of understanding with local law enforcement agencies for jurisdictions served by the hospital setting forth the terms and conditions for the transfer of custody.

Currently, any individual under an ECO who meets the criteria for a TDO for whom no bed is found in a private hospital must be transferred to a state facility before the end of the eight hour ECO period. Data suggests that nearly 30 percent of all individuals admitted to DBHDS facilities under a TDO are intoxicated or have traces of illicit substances in their blood or urine, many of whom are subsequently released from their TDO at the civil commitment hearing. By extending the period of ECO, an individual may be observed for a longer period before determining if they should be subject to a highly restrictive TDO. This may also allow individuals who are intoxicated at the time the ECO to regain capacity before being assessed.

This legislation may allow an individual enough time to stabilize under the ECO period and be referred to other outpatient services instead of receiving a temporary detention order for involuntary hospitalization, however the impact on total number of temporary detention orders is unknown. This would result in cost avoidance for DBHDS by reducing the bed census in state hospitals.

The cost of services provided during the time period for which a person is held under an extended ECO would be the responsibility of an individual's private insurance, Medicaid, or the funds in the Department of Medical Assistance Services (DMAS) dedicated for the medical costs of involuntary mental commitments, if applicable. However, the delay in admission to a mental health facility may provide individuals sufficient time to regain capacity, resulting in fewer traditional TDO admissions in some cases. DMAS estimates that the bill may have an impact on the number of authorizations and facility admissions, however, any possible impact is not projected to be significant and any fiscal impact would be minimal.

This legislation requires private hospitals to establish MOUs with local law enforcement that would require the hospital accept custody of an individual under an ECO. If custody is transferred to the hospital upon admission, it may relieve the burden on local law enforcement, who are currently required to accompany the individual for the duration of the ECO until they are transferred to their TDO placement. Because the legislation does not spell out the exact hour at which custody would be transferred to the hospital, it is unclear what the ultimate impact will be on Sheriffs and other local law enforcement.

9. Specific Agency or Political Subdivisions Affected: Department of Behavioral Health and Developmental Services, State Hospitals, CSBs, local law enforcement.

10. Technical Amendment Necessary: No.

11. Other Comments: None.