

Department of Planning and Budget 2008 Fiscal Impact Statement (Substitute)

1. Bill Number: SB246

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

2. Patron: Howell

3. Committee: Courts of Justice

4. Title: Involuntary commitment; establishes new standard for outpatient commitment.

5. Summary: Involuntary commitment. Establishes a new standard for involuntary outpatient commitment authorizing involuntary commitment where the person has a mental illness and there exists a substantial likelihood that, as a result of mental illness, the person will, in the near future (i) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm, or (ii) suffer serious harm due to substantial deterioration of his capacity to protect himself from harm or to provide for his basic human needs. This bill also requires a provider of mental health services to disclose records to a magistrate, the court, the person's attorney, the examiner, a community services board (CSB) or behavioral health authority, or law-enforcement officer; authorizes a single four-hour extension of an emergency custody order; provides that a person under a temporary detention order may be released prior to 48 hours after the order is executed if the person does not pose a danger to himself or others; specifies records and evidence that must be reviewed prior to an independent examination; requires that a representative of the CSB preparing the preadmission screening report attend each commitment hearing; establishes additional requirements for outpatient commitment; requires an outpatient treatment plan be filed with the outpatient order; and clarifies the monitoring duty of the community services board.

6. Fiscal Impact Estimates: Tentative

7. Budget Amendment Necessary: No

8. Fiscal Implications: The bill can be broken down into several provisions, some of which will have a fiscal impact on Community Services Boards.

• Disclosure and Sharing of Information:

No fiscal impact. Affected organizations already have the information available.
Provisions will allow for the legal transmission of this data.

• Criteria for involuntary inpatient admissions and mandatory outpatient treatment

This change may be perceived as broadening the existing criteria which might increase demand for local or state hospital inpatient beds. However, until the changes are put into practice, it is not clear what the impact will be. Other states' experiences have been variable. The provisions could also impact the number of psychiatric evaluations that will require an expansion of emergency

services, including emergency consultation capacity. Other provisions in the bill will initiate mental health treatment prior to involuntary commitment and may encourage less costly mandatory outpatient treatment. The addition of new crisis stabilization beds, and emergency psychiatric services proposed in the Governor's FY 2008 – 2010 biennial budget, will ameliorate any possible increase in demand.

- **Emergency custody order extension**

No fiscal impact. Provision reflects or accommodates current practice.

- **Mental health treatment during the temporary detention period**

May increase immediate treatment costs for those awaiting trial, but costs should be offset in long-term by diverting individuals from costly involuntary commitments. The Governor's proposed budget includes funding for jail diversion treatment, emergency outpatient services, as well as psychiatric consultations that will enable CSBs to provide evaluation and treatment during the detention period. This provision had an original estimated impact of \$647,744 but further review indicates that actual impact is indeterminate without data from actual experience.

- **CSB attendance at hearings - \$4.0 million annually**

May increase CSB costs in regions where boards do not currently attending hearings. According to data from the Supreme Court, there are approximately 20,000 commitment hearings on an annual basis. The Office of the Inspector General determined that 50 percent of CSBs do not attend hearings on a regular basis. Urban CSBs are more likely to attend hearings than rural CSBs, and are less likely to be significantly impacted by this provision. Staffing has been noted as a significant barrier. It is estimated that, on average, each CSB would need at least two additional case managers to effectively attend hearings and case manage clients, or 80 system-wide. The cost per case manager is estimated at \$50,000, for a total of \$4.0 million per year.

To meet recommended standards for caseload system-wide, the Office of the Inspector General estimated an additional 230 case managers would be needed at a cost of \$11.5 million. This increase, however, would address service provision issues beyond those required by this legislation. The Governor's budget provides \$8.8 million in funding for 106 new case managers by the end of the biennium.

- **Mandatory outpatient treatment – commitment and monitoring - \$1.7 million annually**

While this provision may increase CSB costs, the proposed language generally provides clarity about what is to happen when someone is ordered into MOT, with the focus being on preparation of the treatment plan, identification of providers, monitoring responsibilities, and obligations when there is non-compliance. Of the 20,000 commitment hearings each year, approximately 50% lead to civil commitment.

It is not known how many additional individuals will be ordered into mandatory outpatient treatment because the availability of appropriate services is still limited in the community. The Department of Mental Health, Mental Retardation and Substance Abuse Services estimates a maximum increase in the number of individuals committed under mandatory outpatient treatment at 3,750. For every individual committed, it can be assumed the minimum number of hours of service will be 7.5 hours, or 10 office visits of 45 minutes each. Thus, on average, each CSB will be responsible for approximately 700 new hours of service per year, or an average of approximately 13.5 service hours per week. It can be assumed that there are additional hours of

administrative duties for each client. In total, each CSB will be responsible for 1075 total hours, at a cost \$42,000 per year. System-wide, the cost is approximately \$1.7 million per year. In addition, each CSB would require \$35,000 for case management (approximately .7 FTE) of these individuals.

To address this cost, the Governor's introduced budget phases in \$4.5 million in additional funds to expand and improve outpatient services for adults, in addition to the case management funds listed above. Although it is not anticipated that this will reduce costs at state facilities, it may free beds for individuals who do not meet mandatory outpatient criteria.

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: 2/04/2008

Document: G:\FY2008\FIS\Vtech\Agency FIS\SB246s1.Doc

cc: Secretary of Health and Human Resources