

Department of Planning and Budget
2016 Fiscal Impact Statement

1. Bill Number: HB1110

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

2. Patron: Bell, Robert B.

3. Committee: Courts of Justice

4. Title: Temporary detention; notice of recommendation; communication with magistrate.

5. Summary: Provides that the magistrate conducting a temporary detention hearing shall consider, if available, the recommendations of the person's personal representative and relatives. The bill also requires the community services board evaluating a person for temporary detention, if the evaluation recommends that the person not be subject to temporary detention, (i) to notify the person's personal representative of such recommendation in addition to the current obligation to notify the petitioner and an onsite treating physician; (ii) to include in such evaluation any contrary recommendations, if available, by the person's personal representative, relatives, or treating or examining physician; and (iii) to arrange for the petitioner to communicate with the magistrate prior to taking action on the petition for temporary detention. Finally, the bill imposes a duty on health care providers providing services to a person subject to emergency custody, temporary detention, or involuntary admission proceedings to make a reasonable attempt to notify the person's family member or personal representative and clarifies that such representative includes an agent named in an advance directive; currently, such health care provider has discretion as to whether to make such notification.

6. Budget Amendment Necessary: See 8. below.

7. Fiscal Impact Estimates: Indeterminate

8. Fiscal Implications: Similar to HB811, this bill implements new procedures for community services boards (CSB) when considering a minor to be subject to a temporary detention order (TDO) by giving treating or examining physicians, health care agents named in advance directives, "personal representatives" and "interested relatives" of individuals who are the subject of these proceedings, greater access to and involvement in the judicial decision-making process under emergency custody order (ECO) and TDO statutes.

Specifically, the bill creates a new procedure that requires CSB evaluators to inform an agent, personal representative or interested relative of the evaluator's decision not to recommend temporary detention. In addition, the evaluator is to include in his evaluation any contrary recommendations of the petitioner, the person's personal representative or interested relative, and treating or examining physician. Also, the evaluator is to arrange, if requested,

for the petitioner, the person's personal representative or interested relative to communicate with the magistrate directly in person or by other electronic means, prior to the expiration of any ECO and before the magistrate acts on the petition.

Under the bill, the number of direct petitioners that could be involved in any one individual's judicial process concerning a temporary detention order would greatly expand. An expansion of interested parties will likely lead to CSB staff making more calls to these newly defined petitioners, as well as arranging meetings between the additional petitioners and magistrates of the court.

It is unclear how many new petitioners could be eligible for judicial involvement in each case, and therefore how many additional points of contact and meetings would need to be established by CSB staff. This could present a significant administrative burden on CSBs, and while the state is not required to fund the costs of the additional requirements, they may need additional resources to comply. For reference, in FY 2015, there were 83,701 emergency evaluations (229 per day) and 24,902 TDOs issued (68 per day). There are 40 CSBs responsible for the evaluation process.

In addition, if the involvement of the additional parties results in a greater number of individuals being recommended for temporary detention, the pressure on state facilities to accommodate new TDOs will be exacerbated. Concurrently, any increase in the number of TDOs issued would impact expenditures from the Involuntary Mental Commitment Fund.

9. Specific Agency or Political Subdivisions Affected: Department of Behavioral Health and Developmental Services, Community Services Boards, Courts of Justice

10. Technical Amendment Necessary: No.