

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: SB1302

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Deeds

3. Committee: Education and Health

4. Title: Temporary detention in hospital for testing, observation, or treatment; mental/physical condition.

5. Summary: Clarifies that in the case where a mental or physical condition is a result of intoxication, a licensed physician who has attempted to obtain informed consent of an adult person for treatment of such mental or physical condition resulting from intoxication may seek an order from the magistrate or court in the jurisdiction where the respondent is located authorizing temporary detention of the adult person in a hospital emergency department or other appropriate facility for testing, observation, or treatment, provided that certain conditions are met.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: See 8 below.

8. Fiscal Implications: The proposed legislation clarifies that in cases of intoxication, a medical temporary detention order (TDO) can be obtained from a court or a magistrate, regardless of the court's availability.

During the 2020 General Assembly session, SB738/HB1452 clarified substance intoxication as a qualifying condition for a medical TDO. The new language also clarified that, in cases in which an individual was under an emergency custody order (ECO) prior to the medical TDO, the local Community Services Board shall be notified when the required observation, testing, or treatment of the medical TDO is complete, and shall reassess the individual as soon as practicable, to determine whether psychiatric temporary detention criteria is met. These changes were made due to the increasing number of individuals placed under psychiatric TDOs as a result of substance use and intoxication. The use of the medical TDO allows time for an individual who is intoxicated to be medically stabilized and potentially allows the CSB prescriber to better assess whether an individual's psychiatric condition is a result of intoxication or a mental illness.

This legislation would allow physicians to obtain a medical TDO from the magistrate or the court, which may simplify the medical TDO process and encourage providers to seek a medical TDO rather than a psychiatric TDO.

The increase in use of medical TDOs may reduce census pressures at state-operated hospitals, as individuals could be treated for intoxication in a private hospital and may be able to be discharged following the period of intoxication and withdrawal. However, under a medical TDO the emergency room/hospital is required to maintain custody of the individual under the order, rather than law enforcement. This may result in discouraging physicians from obtaining medical TDOs, especially if the patient is displaying aggressive or disruptive behavior. Currently, medical TDOs are not commonly used and therefore any cost avoidance is expected to be minimal.

Additionally, the proposed legislation has the potential to lead to an increase in the number of proceedings before magistrates and judges, but it is not possible to estimate that number. However, the circumstances when this bill will be applicable are so specific that it is expected that the bill would not have a material fiscal impact on the court system.

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

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is similar to SB808 and HB1792