

Fiscal Estimate - 2019 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number **19-3592/1**
 Introduction Number **SB-418**

Description
 right to specific staffing arrangements for certain patients in an intensive treatment program

Fiscal Effect

State:

- No State Fiscal Effect
- Indeterminate
 - Increase Existing Appropriations
 - Decrease Existing Appropriations
 - Create New Appropriations
- Increase Existing Revenues
- Decrease Existing Revenues
- Increase Costs - May be possible to absorb within agency's budget
 - Yes
 - No
- Decrease Costs

Local:

- No Local Government Costs
- Indeterminate
- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory
- 3. Increase Revenue
 - Permissive Mandatory
- 4. Decrease Revenue
 - Permissive Mandatory
- 5. Types of Local Government Units Affected
 - Towns
 - Counties
 - School Districts
 - Village
 - Others
 - WTCS Districts
 - Cities

Fund Sources Affected
 Affected Ch. 20 Appropriations
 GPR FED PRO PRS SEG SEGS 20.435 (2)(gk)

Agency/Prepared By	Authorized Signature	Date
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Fiscal Estimate Narratives

DHS 10/15/2019

LRB Number	19-3592/1	Introduction Number	SB-418	Estimate Type	Original
Description right to specific staffing arrangements for certain patients in an intensive treatment program					

Assumptions Used in Arriving at Fiscal Estimate

This bill would establish the right for residents in an intensive treatment program at one of the Department of Health Services (DHS) State Centers for People with Intellectual Disabilities to have, upon request, an individual of a requested sex present for certain interactions. The right applies only to individuals receiving treatment at an intensive treatment program (ITP) at a State Center. The interactions include assisting with bathing toileting, or any activity that requires the removal of clothing other than outerwear, footwear, or accessories; movement within the center or other transfer involving transport through an isolated area; and any interaction in a private room, bathroom, changing room, exam room, or any other isolated area. Currently, the Central Wisconsin Center, Northern Wisconsin Center, and Southern Wisconsin Center each operate ITPs. The Department has the capacity to treat up to 39 individuals in the ITP programs at its Centers.

Under the provisions of this bill, a resident's right may be denied for cause after review by the facility director, and when medically or therapeutically contraindicated as documented by the resident's physician, licensed psychologist, or licensed mental health professional in the resident's treatment record. The Department would provide a written document that includes the grounds for the withdrawal of rights. The resident would have the opportunity to meet with the facility director informally to review the withdrawal of rights, and could file a grievance through the state's grievance procedure if they remain concerned.

The bill does not provide funding for the Department to administer the new right. Treatment in the intensive treatment program typically lasts six to nine months, with residents remaining at a Center for the length of the stay, before returning to their community. To provide the right created in this bill, DHS would require staff available at all times to accommodate requests for assistance. To ensure sufficient staff members of a specific sex are available to assist on a 24 hour basis, the Department would need an additional 85.5 FTE resident care technician – advanced (RCT) positions. These additional RCTs would accompany residents throughout the facility, when requested and in the circumstances stipulated in the bill. To accommodate the requests, DHS assumed a staffing pattern that would provide one staff member for every two residents during the morning and afternoon shifts, and one staff member for four residents during the overnight shifts throughout the year. Assuming DHS was able to recruit and start an RCT training class by January 2020, the cost of providing six months of these services in FY 20 is expected to be 85.5 FTE and \$2,881,400, with costs increasing to \$5,335,200 PR in FY 21.

The Department is finding it a challenge to recruit staff in existing positions at the Centers. If DHS were unable to recruit staff to fill these positions, it would need to rely on staff overtime or contract staff to provide requested services. Due to the staff's proximity to the intensive care needs of the population served at the Centers, the Department would need to hire contract certified nursing assistants to perform the duties. If DHS were forced to rely only on contracted staff to provide the services, the Department estimates the costs would be about \$3,313,600 PR for six months of services in FY 20, and would increase to \$6,135,500 PR in FY 21.

The Department has concerns about its ability to meet its staffing obligations under this bill, while adhering to Federal Title VII of the Civil Rights Act of 1964. The Civil Rights Act prohibits employers discriminating against employees based on race, color, religion, sex, or national origin regarding terms, conditions, and privileges of employment. To ensure the correct mix of sexes are available on staff, the Department, or contracted provider, would need to hire the individuals using a bona fide occupational qualification (BFOQ). The Equal Employment Opportunity Commission (EEOC) reviews the BFOQs and the Department would need to ensure it would meet all the EEOC requirements before it could recruit for the positions. Because the bona fide occupational qualifications are determined on a case-by-case basis, the Department's ability to estimate the cost of receiving the qualification, the administrative burden of hiring BFOQs, and its ability to implement the policy is limited.

In summary, to administer the provisions of this bill, the Department would require an additional on-going 85.5 FTE and \$2,881,400 PR in FY 20 and \$5,335,200 PR in FY 21.

Long-Range Fiscal Implications

Fiscal Estimate Worksheet - 2019 Session

Detailed Estimate of Annual Fiscal Effect

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Description right to specific staffing arrangements for certain patients in an intensive treatment program			
I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$213,800			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$4,403,200		\$
(FTE Position Changes)	(85.5 FTE)		
State Operations - Other Costs	932,000		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$5,335,200		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS	5,335,200		
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$		\$
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>	<u>Local</u>	
NET CHANGE IN COSTS	\$5,335,200		\$
NET CHANGE IN REVENUE	\$		\$
Agency/Prepared By		Authorized Signature	Date
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