

Fiscal Estimate Narratives

DOC 2/26/2008

LRB Number	07-1705/1	Introduction Number	SB-512	Estimate Type	Original
Description Mandatory overtime hours worked by health care workers employed by health care facilities and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

This bill would prohibit a health care facility (which includes jails, a county house of corrections and state prisons) from requiring a health care worker who provides direct patient/resident health care, clinical or laboratory services from working more than 40 hours per week or more than a pre-scheduled work shift without the consent of the employee, except in cases of unforeseeable emergencies where all other options have been exhausted.

This bill also prohibits discharging or discriminating against a health care worker in promotion, compensation, or in the terms, conditions or privileges of employment for refusing to work overtime, for opposing a health care facility's practice of requiring health care workers to work overtime, for filing a complaint or attempting to enforce the right to refuse to work overtime, or for testifying or assisting in any action or proceeding to enforce that right. This bill provides for monetary penalties for any health care facility that in violation of this bill discharges or discriminates against a health care worker for refusal of overtime.

The Department currently has a policy of looking at other options before overtime is forced (e.g. offering overtime first through a seniority roster or utilizing temporary agency staff) but in some cases still does have to force overtime. The Department expended approximately \$1,526,800 on overtime for health care workers at DOC's adult and juvenile facilities in FY07. This represents over 35,900 hours of overtime. It is unknown how much of this overtime resulted from "forced" overtime.

The Department currently operates only one unit, the Infirmary at the Dodge Correctional Institution (DCI) that functions as a 24-hour inpatient health care facility that is staffed by health care and security staff. The Department also has specially trained health care staff that provide in-house dialysis services at DCI as well. The Department has three Health Services Units (HSUs) that are staffed and operational 24 hours per day, seven days per week. The Department's remaining HSUs have varying daily hours of operations. Many facilities are staffed with as little as one nurse on a weekend shift.

The Department actively seeks solutions to prevent forced overtime, especially when overtime needs can be predicted (e.g. during extended leaves or during vacancies). Fewer alternatives, however, are available when short notice, day-of, sick calls occur. In these situations health service units frequently only have one to two hours notice. If no one volunteers to take overtime in these situations, it may also be impossible to obtain temporary contracted staff this quickly. If under these circumstances of short notice, day-of, sick calls it is not possible to obtain voluntary or contracted coverage of necessary shifts, and these circumstances are considered "unforeseeable emergencies", the Department would not be impacted by this legislation; we most likely would not be required to obtain the consent of the employee for overtime coverage.

If these situations do not meet the definition of an "unforeseeable emergency", other measures would need to be taken. HSUs who are confronted with a forced overtime situation may need to close during shifts when they would normally be staffed. Reduced HSU hours could result in increased emergency room utilization. In FY07 DOC expended almost \$2,600,000 on emergency room services. If reduced hours of operation due to lack of coverage resulted in just a 10% increase in emergency room services the cost increase would be \$260,000.

In those cases where units must remain operational (Infirmary or Dialysis), services would have to be reduced or staff would have to be increased in anticipation of call-ins. Just one additional nurse per shift, 24-hours per day, seven days per week, would require 5.00 additional Nurse Clinician 2 FTEs at a cost of almost \$500,000 annually.

Some county jails provide health services with county employees. However, many of them provide these services through contracted health care. If contracted providers were no longer able to require overtime when it was needed and instead had to increase staffing levels to create a cushion so that mandatory

overtime was never needed, contracted service costs could potentially increase. The Department does not have information on what counties expend on overtime for health care employees or the number of hours of forced overtime. Just like DOC's facilities, however, if forced overtime was prohibited counties would be forced to reduce services or increase staffing levels to provide a cushion that would prevent all overtime.

Because the amount of forced overtime that currently occurs is not available, it is not possible to calculate a fiscal impact, however, it is anticipated that this legislation could result in reduced on-sight health care services or increased costs to both the Department of Corrections and local county jails.

Long-Range Fiscal Implications