

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 4, 2019**

**TO:** Honorable Joan Huffman, Chair, Senate Committee on State Affairs

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** SB362 by Huffman (relating to court-ordered mental health services.), **Committee Report 1st House, Substituted**

The fiscal implications of the bill on the Health and Human Services Commission cannot be determined at this time due to insufficient information related to a potential increase in the number of individuals who would receive court-ordered outpatient mental health services under the provisions of the bill.

The Health and Human Services Commission (HHSC) is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose.

The bill would amend Article 16.22 of the Code of Criminal Procedure to allow a court to release a defendant on bail while charges are pending and enter an order transferring the defendant to the appropriate court for court-ordered outpatient mental health services. The bill would amend Chapter 22 of the Government Code to require the Court of Criminal Appeals to ensure judicial training related to the problems of court-ordered mental health services is provided at least once a year. The bill would add two new sections to Health and Safety Code Chapter 574 to specify conditions under which a judge may order temporary or extended outpatient mental health services and would amend various sections of code to refer to the new sections added under Chapter 574. The bill would amend Health and Safety Code Sections 574.034 and 547.035 to specify those sections apply to orders for inpatient mental health services. The bill would require facility administrators of a facility to which a patient is committed for inpatient mental health services to assess the appropriateness of transferring the patient to outpatient mental health services no later than the 30th day after the patient is committed to the facility and make a recommendation to the court to modify the court order. The bill would allow for a court to set a status conference with the patient, the patient's attorney, and the designated individual responsible for the patient's court-ordered outpatient mental health services.

The bill would require a private mental health facility that is contracting with a local mental health authority to provide or pay for psychoactive medication for a patient on furlough or discharge that is sufficient to last until the patient can see a physician, and requires the executive commissioner of HHSC to adopt rules regarding the quantity and manner of providing psychoactive medication. The bill would require the Supreme Court to adopt rules concerning court processes under Chapter 573 of the Health and Safety Code. The bill would repeal Sections 574.034(b), (e), and (f); and Sections 574.(b), (f), and (g) of the Health and Safety Code. The bill would take effect September 1, 2019.

According to HHSC, there would be a potential fiscal impact to implement Sections 2, 5, 7, 9, 10, and 11 of the bill due to an anticipated increase in the amount of court-ordered services delivered that are eligible for Medicaid payment. However, HHSC does not have the data available to estimate the percentage of individuals that would be ordered to mental health treatment.

HHSC estimates there would be a cost incurred by the local mental health authorities to implement Section 21 of the bill to provide or pay for certain medications for patients on furlough or discharge. The estimated cost to provide 7 days of medications at discharge range from \$483,864 to \$907,311 per fiscal year. These cost estimates are based on costs incurred in fiscal year 2018 at the state-owned mental health hospitals and certain other contracted inpatient facilities to pay for 7 days of medications at discharge. The lower estimate assumes costs for psychoactive medications only, at a cost of \$36.12 per patient. The higher estimate assumes costs for all medications provided at discharge, including psychoactive medications, medications to counteract adverse side effects of psychoactive medications, and condition-related medications, at a cost of \$67.73 per patient. These estimates may vary depending on the number of patients the local mental health authorities and private mental health facilities are required to provide medications for, the types and of medications being provided, and the quantity of medication being provided.

According to the Office of Court Administration, it is assumed the Court of Criminal Appeals and the Supreme Court can implement the provisions of the bill within existing resources.

### **Local Government Impact**

According to the Office of Court Administration, no significant fiscal implication to local courts is anticipated. According to Nueces County Juvenile Department, there may be an impact depending on how long a child is detained and awaiting transfer into mental health services. According to Bexar County Juvenile Department, no cost is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 529 Health and Human Services Commission

**LBB Staff:** WP, CMA, EP, SB