



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0079	Introduced on January 12, 2021
Author:	Malloy	
Subject:	Fitness to Stand Trial, Hearings	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Boggs and Gardner	
Impact Date:	March 18, 2022	

Fiscal Impact Summary

This bill allows the court to order a person who is unfit to stand trial, but likely to become fit in the foreseeable future, to undergo restoration treatment by the Department of Mental Health (DMH) for 180 days and provides procedures when the person who was not committed after judicial admission proceedings was charged with a violent crime. Further, the procedures require a hearing as to whether the person shall be released on bond and requires any terms or conditions included in the person's bond be therapeutic in nature.

The potential impact on DMH is currently undetermined. DMH states this bill may increase the General Fund expenditures for the agency by as much as \$2,075,000 annually beginning in FY 2022-23 to operate jail-based and community-based restoration treatment programs. However, DMH estimates that increasing the treatment period from 60 days to 180 days could reduce the number of long-term patients treated by the department and increase the department's capacity to provide restoration treatment. The fiscal impact of this shift in patients cannot be determined at this time, and will depend on the treatment outcomes of patients. Further, the potential impact on the DMH's Other Funds and Federal Funds is still under review by the agency.

This bill will have no expenditure impact for Judicial nor the Commission on Indigent Defense (CID), as both anticipate being able to manage any additional responsibilities within existing appropriations.

The potential impact on the Department of Corrections and the Commission on Prosecution Coordination is pending, contingent upon a response from the agencies.

Explanation of Fiscal Impact

Introduced on January 12, 2021

State Expenditure

This bill establishes restoration treatment as an option for individuals who are found unfit to stand trial, but who are likely to become fit in the foreseeable future. Currently, if an individual is found to be unfit to stand trial but likely to be fit in the foreseeable future, the individual is hospitalized for up to 60 days. After this 60-day period, if the individual is still found to be unfit to stand trial, the solicitor responsible for prosecution shall initiate judicial admission

proceedings to have the individual involuntarily hospitalized. This bill will allow these individuals to undergo restoration treatment provided by DMH for up to 180 days. This bill also gives DMH the discretion to provide restoration treatment at a hospital or detention facility if an individual is detained, or in a hospital or outpatient basis if the individual is on bond.

Department of Mental Health. DMH uses a statewide network of community mental health centers, clinics, hospitals, and nursing homes to support the recovery of people with mental illness. This bill extends the period of restoration treatment from 60 days to 180 days. DMH estimates this will have an undetermined fiscal impact on the department. According to DMH, under normal operations prior to the COVID-19 pandemic, there were an average of thirty patients receiving restoration treatment at the department's G. Werber Bryan Psychiatric Hospital. DMH indicates the cost to provide restoration treatment services at the department's psychiatric hospital is approximately \$650 per day per patient. Currently, when a patient completes the 60-day period for treatment and is found still unfit to stand trial, the patient is recommitted to DMH and treated in a separate section of the hospital devoted to long-term patients. DMH reports that between January 1, 2020, and February 1, 2021, 44 percent of patients who completed the 60-day treatment were found still unfit to stand trial. The average stay of long-term patients is 1,400 days. Based on their research, DMH estimates the proposed extension of the treatment period could reduce the current recommitment rate of 44 percent to 25 percent or lower, which could result in a reduction of 35 patient recommitments annually. DMH anticipates that over time the reduction in long-term patients will increase the capacity available for restoration treatment.

This bill gives DMH the discretion to provide restoration treatment for individuals who are detained in a hospital setting, detention facility, or out-patient basis, dependent upon the individual's circumstances. While this is an expansion of DMH's restoration treatment services, DMH indicates providing treatment in detention centers or on an out-patient basis would result in lower cost treatment compared to services provided at their psychiatric hospital and would also allow the department to more timely admit individuals requiring treatment in a hospital setting who are waiting for a bed. Based on information from other states, DMH estimates the cost to provide jail-based restoration treatment could range from \$150 to \$250 per patient per day. This cost per day estimate would provide for 2.5 FTEs including a part-time psychiatrist, a full-time psychologist, and a full-time social work counselor. This amount also includes an estimate for other operating expenses, such as overhead charged by the detention center for use of its space, security, and other medical services. DMH estimates program participation of 20 patients at a time for 365 days, resulting in 7,300 patient service days. Providing 7,300 patient service days at \$150 per patient per day would cost \$1,095,000 annually, while providing 7,300 patient service days at \$250 per patient per day would cost \$1,825,000 annually.

DMH estimates the cost to provide treatment in the community for individuals out on bond to be \$100 per day, based on information from other states. This per day cost estimate would provide for 1.0 FTE including a part-time psychiatrist and a part-time psychologist. DMH estimates program participation of 10 patients at a time for a full year excluding weekends and holidays, or 250 days, resulting in 2,500 patient service days. Providing 2,500 patient service days at \$100 per patient per day would cost \$250,000 annually.

In summary, DMH estimates the cost to expand restoration treatment to include jail-based and community-based programs could increase General Fund expenditures by as much as \$2,075,000 annually beginning in FY 2022-23. As noted, increasing the treatment period from 60 days to 180 days could reduce the number of long-term patients treated by the department and increase the department's capacity to provide restoration treatment. However, the fiscal impact of this shift in patients from treatment in inpatient facilities to a jail or community-based program cannot be determined at this time, and will depend on the treatment outcomes of patients. Therefore, the impact of all these changes to DMH's responsibilities is undetermined. Additionally, DMH indicates this bill may have an expenditure impact to Other or Federal Funds. DMH is working to provide additional information relative to this potential impact. We will update this response if additional information becomes available.

Judicial. The bill provides that a hearing shall be held to determine whether a person should be released on bond, the terms of which must be therapeutic in nature. Judicial indicates that implementation of the bill would cause a delay in general sessions courts. There is no data to estimate the number of filings, hearings, or trials that may be impacted. However, Judicial intends to use existing General Fund resources to manage any additional costs associated with the bill. Therefore, this bill will have no expenditure impact for Judicial.

Commission on Indigent Defense. CID establishes and monitors programs and services for legal representation to indigent defendants charged with criminal offenses in the courts of the state. CID plans to manage any increase in expenditures, if any, within current resources. Therefore, this bill will have no expenditure impact for CID.

Department of Corrections. The fiscal impact of this bill is pending, contingent upon a response from the Department of Corrections.

Commission on Prosecution Coordination. The fiscal impact of this bill is pending, contingent upon a response from the Commission on Prosecution Coordination.

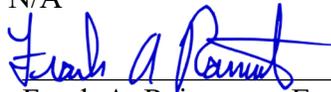
State Revenue

This bill allows the court to order a person who is unfit to stand trial, but likely to become fit in the foreseeable future, to undergo restoration treatment by the Department of Mental Health (DMH) for 180 days and provides procedures when the person who was not committed after judicial admission proceedings was charged with a violent crime. Further, the procedures require a hearing as to whether the person shall be released on bond and requires any terms or conditions included in the person's bond be therapeutic in nature.

DMH indicates this bill may have a revenue impact to Other or Federal Funds. DMH is working to provide additional information relative to this potential impact. Therefore, this impact is pending, contingent on an additional response from DMH.

Local Expenditure and Local Revenue

N/A



Frank A. Rainwater, Executive Director