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FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/17
SPONSOR Martinez, R **LAST UPDATED** _____ **HB** 395

SHORT TITLE 6th Judicial District Behavioral Health Pgm **SB** _____

ANALYST Boerner

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18 – FY20		
	\$234.6	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Administrative Costs	\$67.9	\$67.9	\$67.9	\$203.7	Non-recurring	General Fund
	Additional Program Costs*	\$220.0	\$220.0	\$220.0	\$660.0	Non-recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*HSD estimates HB 395 would generate additional program costs beyond the bill’s appropriation; however, since the bill allows HSD and counties to determine criteria for inmate participation, presumably the program could be targeted in a way to control costs (see Fiscal Implications)

Relates to House Bill 306, which seeks to reduce recidivism by requiring HSD’s Behavioral Health Services Division to create a framework for targeted, individualized interventions for offenders with behavioral health diagnoses and to connect them to appropriate resources and

SOURCES OF INFORMATION

LFC Files

Responses Received From

Human Services Department (HSD)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

House Bill 395 (HB 395) directs HSD to develop, administer and fund a three-year demonstration project to provide behavioral health and community reintegration programs and services for inmates of the sixth judicial district county detention centers.

The bill contains an appropriation of \$234,620 from the general fund to HSD for expenditure in fiscal years 2018 through 2020. Any unexpended or unencumbered balance at the end of 2020 would revert to the general fund.

FISCAL IMPLICATIONS

The appropriation of \$234,620 contained in this bill is a nonrecurring expense to the general fund. While appropriations for pilot programs are typically scored as recurring expenses to the general fund, the appropriation in this bill has been defined for a three-year period without specification for the amount to be spent in any given year. Any unexpended balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Administrative Costs

HSD described additional costs associated with the administrative duties of this new program (see administrative implications); the department argues it would need to hire a program coordinator with salary and benefits totaling \$67,935 per year for three years.

Program Costs

Regarding actual program costs associated with on-site comprehensive behavioral health services at three detention centers as described in the bill, HSD concludes the bill's appropriation would likely only be sufficient to cover a portion of the first year's cost; however, since the bill allows HSD and the counties to determine criteria for inmate participation, presumably the program could be targeted in a way to control costs and maximize impacts. As explained by HSD:

Program costs would include clinical assessment, treatment, case management, and community integration and life skills training. However, it is reasonable to assume that providing comprehensive behavioral health services at three detention centers would require nine on-site staff (three case managers, three clinicians, and three life skills managers) at an estimated cost of \$660,000 per year, to be billed to HSD for non-Medicaid services. Yearly salary and benefits are based on HSD's Behavioral Health Services Division's experience with other jail-based programs and are conservatively estimated as follows: Case manager, \$75,000; Clinician, \$100,000; Life Skills manager, \$45,000. Total administrative (\$67,935) and service staffing costs (\$220,000 x 3) are estimated at \$727,935 per year. HB 395's appropriation would cover part of first year costs.

Potential for Medicaid-Reimbursed Services for this Population

HSD also points out there is significant uncertainty about the Medicaid costs associated with the bill. Medical and behavioral health services for inmates have not generally been covered by Medicaid; however, the 2015 passage of SB42 has allowed individuals who were enrolled in Medicaid at the time of their incarceration to have their Medicaid enrollment put in a

“suspended” status, if they are incarcerated for 30 or more days. Once the individual is released from incarceration, the suspended status is removed and benefits are reactivated. For those incarcerated *less than 30 days*, SB 42 required that Medicaid coverage continue uninterrupted. In this circumstance, behavioral health services outlined in HB 395 could theoretically be reimbursable through Medicaid, although the target population for the demonstration project is likely to be inmates with longer stays.

SB 42 has been implemented with the New Mexico Corrections Department, which operates facilities in Chaves, Cibola, Colfax, Dona Ana, Santa Fe, Union and Valencia Counties. The program has been further expanded to County Government Correctional facilities in Santa Fe and Sandoval Counties, as well as Children, Youth and Families Department (CYFD)-operated facilities in Bernalillo, Dona Ana and San Juan Counties.

Importantly, county detention centers in the 6th judicial district are not yet participating in this program but will be brought online in the future. Therefore, the service cost estimate for all participants in the demonstration project is calculated as a non-Medicaid operating expense. Should the 6th judicial district opt to implement SB 42 in county detention centers, a portion of non-Medicaid costs could shift to Medicaid, but cannot be estimated at this time.

SIGNIFICANT ISSUES

This demonstration project was recommended by the task force created pursuant to Senate Joint Memorial 4 from the first session of the 52nd legislature, with the intent of developing a statewide program at the end of the demonstration project. The Sixth Judicial District Court is created by statute for the Counties of Grant, Luna, and Hidalgo

PERFORMANCE IMPLICATIONS

HSD provided the following information regarding potential implications of the bill’s requirements for data collection and reporting and evidence-based practices:

HB 395 would require that the project make a record of its progress based on benchmark measures established by HSD in coordination with the participating counties. Those benchmarks must include a measure of the return on investment for the demonstration project. Requirements for baseline data are outlined in the bill, as are certain outcome measures. By November 1 in years 2018, 2019, and 2020, the secretary of HSD would report collected information to the appropriate interim committee that studies courts, corrections and justice issues, the interim legislative health and human services committee, and the legislative finance committee.

Adaptation of behavioral health evidence-based practices (EBPs) to address criminal recidivism could help HSD in both developing this pilot project and in conceptualizing a more comprehensive, statewide framework. Studies indicate that individuals with recurrent criminal behavior share similar risk factors for re-offending, regardless of mental health status.¹ Such risk factors could be identified and applied to existing, proven

¹ *Reducing Criminal Recidivism for Justice-Involved Persons with Mental Illness: Risk/Needs/Responsivity and Cognitive-Behavioral Interventions*, Merrill Rotter and W. Amory Carr. SAMHSA’s GAINS Center for Behavioral Health and Justice Transformation, October 2013.

behavioral health practices to better serve justice-involved individuals. SAMHSA has created a checklist for implementing evidence-based practices and programs for justice-involved adults with behavioral health disorders. It contains a list of EBPs and promising practices specifically for justice-involved individuals and helps behavioral health agencies determine if critical elements are in place in their systems to effectively implement such practices.²

The Behavioral Health Services Division of HSD currently administers jail diversion programs in a number of New Mexico counties and would be the appropriate authority to implement the demonstration project. As the state's advisory body on behavioral health, the Behavioral Health Planning Council could also provide useful feedback on the pilot project and its applicability to other regions of the state.

ADMINISTRATIVE IMPLICATIONS

As noted above, this bill would require HSD to develop and administer a new program in the sixth judicial district necessitating staff time for:

- Development of program criteria;
- Supportive training of county detention staff;
- Coordination of services with the counties, detention centers, and community service providers;
- Creation of a plan for continuous quality improvement of program services;
- Data collection and reporting; and,
- Oversight of funds and general program oversight.

There is also a potential HSD IT Division Impact, depending upon the type and amount of data collected. The Behavioral Health Data Warehouse stores Medicaid and Non-Medicaid Behavioral Health Provider, Client and Claims Data to be used for Federal Reporting.

OTHER SUBSTANTIVE ISSUES

Both AOC and HSD note the bill requires that behavioral infractions be documented and percentage change in infractions used as an outcome measure; however, the bill does not define what constitutes an infraction.

CB/jle

² *A Checklist for Implementing Evidence-Based Practices and Programs for Justice-Involved Adults with Behavioral Health Disorders*, Blandford, Alex M. and Fred C. Osher. SAMHSA's GAINS Center for Behavioral Health and Justice Transformation, August 2012.