



Synopsis of HHC Amendment

The House Health and Human Services Committee amendment to House Bill 43 removes state correctional facilities from the list of correctional facilities that would create and implement targeted, individualized behavioral health interventions as delineated in the bill.

Synopsis of Original Bill

House Bill 43 appropriates \$1.5 million from the general fund to the Human Services Department to fund awards to counties that apply for behavioral health services funding to serve individuals incarcerated in county facilities.

**FISCAL IMPLICATIONS**

The appropriation of \$1.5 million initially contained in HB43 was struck by HAFC.

The House version of the General Appropriation Act includes a special appropriation for \$2.5 million from the general fund to reduce reincarceration and homelessness rates and to improve prison and county jail reentry services and healthcare diagnosis for incarcerated non-violent offenders. HSD's Behavioral Health Services Program, in consultation with the Behavioral Health Purchasing Collaborative and the Mortgage Finance Authority, shall establish a process by which counties and agencies may apply for grants to increase access to evidence-based behavioral health services and improve local indigent housing options. To prioritize funding, the Behavioral Health Services Program and the Behavioral Health Purchasing Collaborative shall consider epidemiological data and other source data including incarceration and reincarceration rates, behavioral health housing needs, alcohol use mortality rates, drug overdose deaths and suicide rates. Counties and agencies that leverage other revenue sources, including federal funds, shall also receive prioritization. The Behavioral Health Services Program shall report outcomes, types and numbers of individuals served to the governor, Legislative Finance Committee and Legislative Health and Human Services Committee by November 1, 2019.

The Human Services Department (HSD) notes the bill does not include funding for individuals in municipal correctional facilities despite the requirement to serve them through a new framework for targeted, individualized behavioral health interventions.

The Children, Youth and Families Department (CYFD) reports there is no significant fiscal implication for CYFD, as transition services for juvenile offenders in CYFD facilities are already in the CYFD budget.

**SIGNIFICANT ISSUES**

HSD notes under Medicaid Centennial Care 2.0, the Medicaid managed care organizations (MCOs) will be required to participate in care coordination efforts for justice-involved individuals prior to release to facilitate transition into the community. HSD is prohibited under federal law from paying for direct services provided to individuals who are incarcerated, with the exception of inpatient hospital care. However, under state statute, Medicaid coverage is not terminated for individuals incarcerated for less than 30 days. At the county level, county facilities are federally required and funded to provide health care services during incarceration, including behavioral health care.

HSD also reports treatment of incarcerated individuals is the responsibility of multiple agencies, raising an issue of overlapping authority in implementing the bill's proposed framework. At the state level, the Corrections Department is responsible for behavioral health interventions for incarcerated adults. At the county level, county facilities are responsible for providing behavioral health care to incarcerated individuals, and similar conditions exist for municipal facilities. However, BHSD could lead efforts to develop and implement standards for assessment and treatment in collaboration with other agencies, organizations and facilities.

### **PERFORMANCE IMPLICATIONS**

HSD reports behavioral health interventions for justice-involved individuals have been evaluated over time and found to be effective at reducing recidivism rates. Successful recidivism reduction programs have three major components: 1) diversion; 2) screening and assessment, with treatment and supportive services while incarcerated; and 3) re-entry services upon release (Reference: Przybylski, Roger, RKC Group, *What Works: Effective Recidivism Reduction and Risk-Focused Prevention Programs*, Colorado Division of Criminal Justice, February 2008; *Position State #56: Mental Health Treatment in Correctional Facilities*, Mental Health Assoc).

### **ADMINISTRATIVE IMPLICATIONS**

HB43, Section 2, provides that the secretary shall adopt and promulgate rules, but does not provide a deadline for doing so.

HSD reports its Behavioral Health Services Division (BHSD) is going to hire a Justice Liaison, who will be tasked with developing, implementing and assessing a systematic approach to behavioral health services for justice-involved adults with behavioral health needs, incorporating BHSD's existing justice-oriented programs.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

CYFD reports the bill requires the Human Services Department (HSD) to develop, implement, and evaluate the proposed framework with respect to both adult and juvenile offenders. Although CYFD is the children's behavioral health authority, it is not included in this process at any level. It is unclear how CYFD would be involved regarding the juvenile offenders targeted by this bill.

CYFD also notes HSD has no authority to promulgate regulations directly affecting juvenile delinquency facilities or state facilities for adjudicated youth.

HSD notes 2018's HB19, which was signed into law, requires that correctional facilities screen for mental illness and substance use disorder within 30 days of incarceration and coordinate with HSD to facilitate provision of care coordination (for Medicaid eligible individuals) prior to the inmate's release. HB43 may duplicate the behavioral health care coordination provisions of 2018 HB19 for the Medicaid-eligible incarcerated population.

House Bill 43 relates to Senate Bill 250 which would require HSD's Behavioral Health Services Division to design and implement a comprehensive community-based mental health system in rural areas that provides wraparound services. One of the potential areas of focus is preventing or reducing the likelihood of relapse following release from detention or incarceration. The wraparound services required by SB250 are similar to the transition services described in HB43.

## TECHNICAL ISSUES

The Attorney General’s Office notes the term “offender” is not defined and the bill is unclear regarding eligibility for the proposed framework. Section 31-5-20 NMSA 1978 defines an adult offender as "an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies". Other statutes define various kinds of juvenile offenders. The bill does not indicate whether it refers to offenders who are incarcerated or offenders who are under the jurisdiction of courts or other authorities in the community.

HSD suggests the following amendments: p.2 line 18: strike “individuals” and insert in its place “adults with behavioral health diagnoses”; p2. line 19: strike “~~or municipal~~”; strike “~~and adults and~~”; and p.2 line 20: strike “~~juvenile offenders who have behavioral health diagnoses~~”. These changes remove juvenile offenders from the target population, and clarify that the target population is adults with behavioral health diagnoses incarcerated in county facilities as consistent with the appropriation, which supports awards to counties only.

## OTHER SUBSTANTIVE ISSUES

The Mortgage Finance Authority (MFA) notes the bill addresses the behavioral health needs of juvenile offenders and incarcerated individuals which include supportive housing, public assistance, medical assistance, behavioral health treatment and employment training. MFA administers programs that provide supportive housing for people with disabling conditions and/or behavioral health diagnoses. These programs are not specifically targeted to individuals exiting incarceration; however, some individuals exiting incarceration obtain supportive housing or are eligible to obtain supportive housing through these programs, particularly the Linkages program, which provides vouchers for people with serious mental illness. Individuals exiting incarceration have great difficulty obtaining housing in the private market and are often forced to live with family or friends where recidivism is more likely to occur. MFA and the Department of Corrections have experienced challenges in providing supportive housing to individuals exiting incarceration including identifying housing providers with both housing and social service qualifications in some parts of the state and identifying landlords willing to rent to persons exiting incarceration.

BHSD currently supports delivery of behavioral health services to justice-involved adults with serious mental illnesses and substance abuse disorders, but those services are not available statewide. Other activities, such as BHSD’s supportive housing program, do not explicitly support adult offenders; however, the criteria for supportive housing eligibility intentionally allows most individuals with criminal backgrounds to obtain rental assistance, housing counseling, life skills training, and case management. Creating, implementing and continually assessing a statewide framework as described in this bill would require programmatic expansion.

## ALTERNATIVES

HSD notes it could work with the Corrections Department, CYFD and the Association of Counties through the Behavioral Health Collaborative to develop a comprehensive approach for provision of behavioral health interventions for justice-involved individuals.