



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 219 through 222 (as reported without amendment)

Sponsor: Senator Kevin Hertel (S.B. 219)

Senator Jeff Irwin (S.B. 220)

Senator Sylvia Santana (S.B. 221)

Senator Paul Wojno (S.B. 222)

Committee: Health Policy

CONTENT

Senate Bill 219 would amend Chapter 4 (Civil Admission and Discharge Procedures: Mental Illness) of the Mental Health Code to do the following:

- Require a patient to be referred to a community mental health services program if a psychiatrist certified that the patient required assisted outpatient treatment (AOT).
- Modify the type of health professional that could testify to a patient's need for AOT.
- Modify the duration of second and third consecutive court orders for involuntary mental health treatment.
- Allow a court, without a hearing, to convene a conference with an individual who was out of compliance with a court order for AOT and the individual's supervising agency to review compliance with the order.
- Allow a peace officer to take an individual into protective custody for examination for mental health intervention if the officer had reasonable cause to believe the individual required treatment, instead of if the officer observed conduct that caused the officer to believe such.

Senate Bill 220 would amend the Mental Health Code to allow an individual permitted to file a petition asserting that another individual required mental health treatment to request and access mediation to resolve a dispute between the individual requiring treatment and the appropriate community mental health services program related to planning and providing services or support to the individual requiring treatment. In addition, if an individual were required by a court order to receive mental health services due to a petition, the bill would require a hospital to detain that individual for up to 24 hours.

Senate Bill 221 would amend the Mental Health Code to do the following:

- Allow a prosecuting attorney, defendant, or defense counsel to bring a motion for an assessment to determine if a defendant met the criteria for misdemeanor diversion to AOT at the time a misdemeanor was charged, or any later time before trial.
- Require a petition for diversion to AOT to be dismissed upon objection by a prosecuting attorney or defendant.
- Allow a court to enter an order for diversion to AOT for up to 180 days.
- Allow a court to modify a diversion to AOT, such as by diverting to inpatient hospitalization, if a defendant failed to comply with the AOT.
- Require misdemeanor charges to remain pending upon diversion to AOT and to be dismissed as a condition of release from AOT.

Senate Bill 222 would amend the Mental Health Code to allow a hospital director, agency, physician, psychologist, qualified mental health professional, or individual to file a petition for a second or continuing order of involuntary mental health treatment at least 14 days before

the expiration of a current order of AOT if the individual receiving treatment were likely to refuse voluntary treatment and needed continued treatment.

Senate Bill 221 is tie-barred to Senate Bill 219.

MCL 330.1401 et al. (S.B. 219); MCL 330.1206a & 330.1429 (S.B. 220)
Proposed MCL 330.1021 et al. (S.B. 221); MCL 330.1473 (S.B. 222)

BRIEF RATIONALE

In 2004, the Michigan Mental Health Commission reported that the Mental Health Code needed to be amended because it only responded to mental health crises as opposed to working to prevent them. In response, the Legislature enacted Kevin's Law, which authorizes courts and community mental health agencies to develop AOT programs and individuals to petition a court to assert that another individual needs AOT. The bills should be passed because they would expand access to AOT so more individuals could use AOT services before the need to be hospitalized.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 219 through 222 are reintroductions of Senate Bills 915 through 918 of the 2023-2024 Legislative Session. Senate Bills 915 through 918 passed the Senate and were reported by the House Committee on Health Policy but received no further action.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

Senate Bill 219

The bill would have an indeterminate, likely minor, negative fiscal impact on the DHHS and local units of government. Under the bill, a peace officer would be allowed to take an individual into protective custody if the officer had "reasonable cause" to believe the individual was a person requiring treatment, whereas current law requires the peace officer to observe an individual acting in a manner that causes the peace officer to believe the individual is a person requiring treatment. This could increase the number of individuals transported to a preadmission screening unit and, ultimately, ordered to receive AOT through the individual's local Community Mental Health Service Provider (CMHSP).

Because the bill would allow, but not require, CMHSPs to recommend and probate courts to order the use of AOT as an alternative to hospitalization, it would be left to the individual CMHSP to determine its level of investment in AOT. Under current law, the Code requires the State to pay 90% of the annual net cost of a CMHSP, subject to appropriation by the Legislature (MCL 330.1308); however, counties can provide funding to their local CMHSP using millages or county general fund. Therefore, a CMHSP choice to provide AOT could result in increased costs for local units of government depending on if the investment were financed by reprioritizing current funding or levying additional local resources. Costs to the State would increase if the increase in AOT were accompanied by an increase in the appropriation level by the Legislature. To the extent that the bill would result in an increase in CMHSPs choosing to provide AOT, it could present an increased cost to the State and would present an increased cost to local units of government.

Senate Bill 220

The bill would have an indeterminate fiscal impact on the DHHS and local units of government. The bill would expand the definition of individuals who could request mediation to include an individual permitted to file a petition for treatment under Section 434 of the Mental Health Code (MCL 330.1434). While current statute requires DHHS to contract directly with mediation organizations, it does not require a specific level of funding by the State and does not require CMHSPs to use the State-contracted mediation organizations.

If the bill resulted in an increase in the number of individuals seeking mediation, CMHSPs could experience an increase in administrative costs if the CMHSP does not use the State-contracted mediation organizations. If the bill resulted in an increase in the number of individuals seeking mediation and the CMHSP uses the State-contracted mediation organizations, the State could see an increase in costs if the increase in mediations could not be absorbed within current State contracts and if the definition change were accompanied by an increase in the appropriation level by the Legislature. The bill would have no fiscal impact on local courts.

Senate Bill 221

The bill would have an indeterminate negative fiscal impact on the DHHS and local units of government. Under the bill, a prosecuting attorney, the defendant, or defense counsel could bring a motion seeking an assessment to determine if a defendant were eligible for diversion to AOT, which could increase the population of individuals receiving AOT.

Under current law, the Mental Health Code requires the State to pay 90% of the annual net cost of a CMHSP, subject to appropriation by the Legislature (MCL 330.1308); however, counties can provide funding to their local CMHSPs through the use of millages or county general fund. Therefore, a CMHSP's choice to provide AOT could result in increased costs for local units of government depending on if the investment were financed by reprioritizing current funding or levying additional local resources. Costs to the State would increase if the increase in AOT were accompanied by an increase in the appropriation level by the Legislature. To the extent that the bill would result in an increase in CMHSPs choosing to provide AOT, it could present an increased cost to the State and would present an increased cost to local units of government.

The bill likely would increase costs for local courts to a minimal degree in the form of additional hearings for patients potentially requiring involuntary or outpatient mental health treatment. These costs are expected to be absorbed by local court systems.

Senate Bill 222

The bill likely would have no fiscal impact on the DHHS and local units of government. The bill would allow "an individual 18 years of age or older to file a petition for a second or continuing order of involuntary mental health treatment" not less than 14 days before the expiration of an initial, second, or continuing order of AOT. Under MCL 330.1434, an individual 18 years of age or older is allowed to file an initial petition with a court asserting that an individual is a person requiring treatment, meaning that the bill would remove the need for an individual 18 years of age or older to wait for the expiration of a current petition before having the ability to file a new petition with a court. This change in timing would be unlikely to create an expansion of the population receiving services and would, therefore, not result in an increase in costs.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.