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**REVISED
FISCAL NOTE**

(replaces fiscal note dated April 16, 2018)

Drafting Number: LLS 18-1222 **Date:** April 24, 2018
Prime Sponsors: Rep. Michaelson Jenet **Bill Status:** House Appropriations
 Sen. Gardner; Williams A. **Fiscal Analyst:** Clare Pramuk | 303-866-2677
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Bill Topic: BEHAVIORAL HEALTH CARE OMBUDSPERSON PARITY REPORTS

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input checked="" type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates the Office of the Ombudsperson for Behavioral Health Access to Care and requires the Commissioner of Insurance to report annually on insurance carrier compliance with mental health parity requirements. The bill creates an ongoing increase in state expenditures.

Appropriation Summary: The bill requires an appropriation of \$94,050 to The Department of Human Services and the Department of Regulatory Agencies.

Fiscal Note Status: The revised fiscal note reflects the introduced bill as amended by the House Public Health and Human Services Committee.

**Table 1
State Fiscal Impacts Under HB 18-1357**

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	General Fund	\$85,695	\$130,552
	Cash Funds	\$8,355	\$0
	Centrally Appropriated	\$15,167	\$23,002
	Total	\$109,217	\$153,554
	Total FTE	1.0 FTE	1.5 FTE
Diversions	General Fund	(\$9,916)	-
	Cash Funds	\$9,916	-
	Total	\$0	-
TABOR Refund		-	-

Summary of Legislation

This bill creates the Office of the Ombudsperson for Behavioral Health Access to Care in the Office of the Executive Director of the Department of Human Services (DHS). The Governor is required to designate an ombudsperson by November 1, 2018, who will be the director of the Office of the Ombudsperson. The office will operate pursuant to a memorandum of understanding with the DHS. The ombudsperson and staff acting on behalf of the office are immune from suit and liability, unless the damage, loss, injury, or liability is caused by the intentional or willful and wanton misconduct of the person. The Commissioner of Insurance and the DHS executive director will appoint liaisons to the ombudsperson to receive reports of concerns, complaints, and potential violations. The duties of the ombudsperson include:

- resolving access and coverage issues;
- monitoring concerns, complaints, and potential violations of state or federal law;
- receiving and reporting concerns and complaints relating to inappropriate care;
- providing information to help consumers obtain behavioral health care;
- developing appropriate points of contact for referrals;
- assisting in filing appeals or complaints; and
- reporting every September 1 to the Governor, DHS executive director, the Commissioner of Insurance, and the House and Senate health committees.

By March 1, 2019, and annually thereafter, the Commissioner of Insurance will provide a written report and presentation to the General Assembly on carrier compliance with rules, the federal Mental Health Parity and Addiction Equity Act of 2008, any regulations associated with the act, or guidance related to compliance with and oversight of the act. The report is also required to include information on market conduct examinations related to mental health parity and any educational or corrective actions taken to ensure carrier compliance.

Background

The federal Mental Health Parity and Addiction Equity Act of 2008 requires that certain health insurers provide mental health or substance use disorder benefits comparable to medical and surgical benefits. These provisions are also included in Colorado law.

State Diversions

This bill diverts \$9,916 from the General Fund in FY 2018-19. This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

This bill will increase expenditures by \$109,217 and 1.0 FTE in FY 2018-19 and \$153,554 and 1.5 FTE in FY 2019-20 and thereafter. These costs are shown in Table 2 and discussed below.

**Table 2
 Expenditures Under HB 18-1357**

Cost Components	FY 2018-19	FY 2019-20
Department of Human Services		
Personal Services	\$74,219	\$127,231
Operating Expenses and Capital Outlay Costs	\$10,261	\$1,425
Travel	\$1,215	\$1,896
Centrally Appropriated Costs*	\$13,606	\$23,002
FTE – Personal Services	0.9 FTE	1.5 FTE
DHS (Subtotal)	\$99,301	\$153,554
Department of Regulatory Agencies (DORA)		
Personal Services	\$8,355	-
Centrally Appropriated Costs*	\$1,561	-
FTE – Personal Services	0.1 FTE	
DORA (Subtotal)	\$9,916	\$0
Total	\$109,217	\$153,554
Total FTE	1.0 FTE	1.5 FTE

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Human Services. DHS will have an increase in General Fund expenditures of \$99,301 and 0.9 FTE in FY 2018-19 and \$153,554 and 1.5 FTE in FY 2019-20 and future years. In the first year, the DHS will develop job descriptions and screen applicants for recommendation to the Governor for appointment to the position of ombudsperson with an expected start date of November 1, 2018. The ombudsperson, supported by 0.5 FTE compliance specialist, will perform the tasks outlined in the bill. Personal services costs are prorated to reflect the November 2018 start date, and for the General Fund paydate shift. In addition to standard operating and capital expenses, the ombudsperson and compliance specialist are expected to travel to address issues outside the Denver metro area and have 3 overnight stays per year.

Department of Regulatory Agencies. The Division of Insurance in the Department of Regulatory Agencies will have increased expenditures of \$9,916 and 0.1 FTE in FY 2018-19 from the Division of Insurance Cash Fund. The division will conduct rulemaking and develop the annual report which will require 0.1 FTE. The workload increase to prepare the annual report will be addressed within existing appropriations beginning in FY 2019-20.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance, and supplemental employee retirement payments, are estimated to be \$15,167 in FY 2018-19 and \$23,002 in FY 2019-20.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2018-19, the bill requires the following appropriations:

- \$85,695 to the Department of Human Services from the General Fund and an allocation of 0.9 FTE; and
- \$8,355 to the Department of Regulatory Agencies from the Division of Insurance Cash Fund, and an allocation of 0.1 FTE.

State and Local Government Contacts

Health Care Policy and Financing
Information Technology
Public Health and Environment

Human Services
Law
Regulatory Agencies