

MEMORANDUM

TO: Joint Budget Committee Members

FROM: Kevin Neimond, Joint Budget Committee Staff, 303-866-4958

SUBJECT: Implementation of Senate Bill 15-109 (Mandatory Abuse Report For Adult With A Disability) Task Force Recommendations

DATE: February 1, 2016

Background

Colorado's Adult Protective Services (APS) system, enacted in 1991, is designed to protect vulnerable or at-risk adults who, because of age or mental or physical ability, are unable to obtain services or otherwise protect their own health, safety, and welfare. Beginning on July 1, 2016, S.B. 15-190 (Mandatory Abuse Report For Adult With A Disability) expanded the mandatory reporting requirement for at-risk adults to cover known or suspected abuse of at-risk adults with an intellectual or developmental disability.

The bill also created a task force to study the cost, best practices, and other aspects of expanded mandatory reporting for this population. The bill specified the membership of the task force and required it to submit a written report of its findings and recommendations to the Governor, the Joint Budget Committee, and the health and human services committees of the General Assembly by December 1, 2015. This report was received by the Joint Budget Committee on December 7, 2015.

In addition to the report or findings and recommendations, the legislation also required the following:

“The task force shall submit to the Office of State Planning and Budgeting and to the Joint Budget Committee of the General Assembly a preliminary report on the costs of implementation so that the amount may be included in the Governor’s budget request.”

Task Force Recommendations

The task force report makes several recommendations to the Joint Budget Committee and the Office of State Planning and Budgeting (OSPB) regarding statutory changes:

- Align key definitions across Criminal, Adult Protective Services, and Intellectual and Developmental Disabilities statutory sections to ensure that all agencies are operating under the same legal guidelines, whenever possible.

- Update and expand the list of mandatory reporters to ensure a more comprehensive list of professionals who routinely interact with at-risk adults with intellectual and developmental disabilities and at-risk elders.
- Add conforming language across statute to ensure that any new or modified definitions are incorporated throughout each statute.

The task force report also makes several recommendations to the Joint Budget Committee and OSPB regarding the FY 2015-16 and FY 2016-17 budget:

S.B. 15-109 Task Force Recommended Appropriations		
Cost Item	FY 2015-16	FY 2016-17
County Cost	\$938,322	\$3,753,289
State FTE Cost	37,806	160,650
Information Technology Licenses	900	17,745
Law Enforcement / District Attorney Implementation Grant Fund	0	1,000,000
APS Training	0	65,000
Law Enforcement Training	75,000	150,000
District Attorney Training	0	55,000
FTE / Contract for Facilitated Training of Mandatory Reporters	75,000	250,000
County FTE Deficit Funding	646,682	2,586,726
Total	\$1,773,710	\$8,038,410

- **County Cost** – The report indicates that an additional 47 county employees are required across the state to implement mandatory reporting of abuse for individuals with intellectual and developmental disabilities. The number of employees is based on the assumption that the number of reports of mistreatment will grow by 30 percent as a result of mandatory reporting for this population. The task force seeks \$938,322 for FY 2015-16 and \$3,753,289 for FY 2016-17 for this purpose. The task force also indicates that the new county staff should be funded with 100 percent State moneys (rather than the traditional 80 percent State and 20 percent local funds rate) because not all counties can afford to add needed caseworkers.
- **State FTE Cost** – The report recommends that staffing at the State level for the Adult Protective Services should be increased by two employees. The first employee would be a program specialist with experience in working with individuals with intellectual and developmental disabilities who would be tasked with supporting county case workers. The second employee would be housed within the Colorado Department of Human Services’ Quality Assurance Unit to review county casework to make sure that it is in compliance with rules and best practices. The task force seeks \$37,806 for FY 2015-16 and \$160,650 for FY 2016-17 for this purpose.
- **Information Technology Licenses** – The report indicates that \$900 for FY 2015-16 and \$17,745 for FY 2016-17 is needed to procure licenses of the Colorado Adult Protective Services (CAPS) data and case management system for the new State FTEs proposed above.

- **Law Enforcement / District Attorney Implementation Grant Fund** – The report recommends that a grant program funded with \$1,000,000 of State moneys be established in FY 2016-17 for local governments to hire personnel within law enforcement agencies and district attorney offices with expertise in investigating crimes against vulnerable populations. It is assumed that in future years the employee costs would be covered by the law enforcement and district attorney offices receiving the grants.
- **APS Training** – The report indicates that \$55,000 for FY 2016-17 is needed to increase the amount of training opportunities provided by the State to county adult protective services workers regarding implementation of protections against abuse of individuals with intellectual and developmental disabilities. The State currently invests \$85,000 for training on abuse of at-risk adults.
- **Law Enforcement Training** – The report recommends that \$75,000 is needed for FY 2015-16 for the Peace Officer’s Standards and Training Board to develop and conduct training related to investigating mistreatment of individuals with intellectual and developmental disabilities. For FY 2016-17, the report recommends that \$150,000 be appropriated for this purpose.
- **District Attorney Training** – The report indicates that \$55,000 is needed for FY 2016-17 for district attorneys and district attorney investigators to attend training related to prosecuting cases of mistreatment of individuals with intellectual and developmental disabilities.
- **FTE / Contract for Facilitated Training of Mandatory Reporters** – The report recommends that moneys be appropriated to develop a statewide awareness campaign concerning crimes against individuals with intellectual and developmental disabilities. The task force envisions a marketing campaign to build awareness within the mandatory reporter community and a contract position to focus on developing strong working relationships between adult protective service workers, law enforcement agencies, Community Centered Boards (and providers), and other agencies. The task force seeks \$75,000 for FY 2015-16 and \$250,000 for FY 2016-17 for this purpose.
- **County FTE Deficit Funding** – The report recommends that moneys be appropriated for the administration of county adult protective services to close a deficit in funding created by a larger number of reports of mistreatment of at-risk elders than was considered in the fiscal note for S.B. 13-111 (Require Reports Of Elder Abuse And Exploitation). The moneys identified by the task force, \$646,682 for FY 2015-16 and \$2,586,726 for FY 2016-17, would be used to hire 25.5 county staff to decrease the staff-to-report caseload to 1:25. It is reported that the current staff-to-report caseload is 1:32. The task force does not indicate if the deficit should be funded with the traditional 80 percent State and 20 percent local funds rate or another split of costs between the State and counties.

Office of State Planning and Budgeting Funding Request

OSPb submitted a letter to the Joint Budget Committee for FY 2015-17 for implementing the provisions of S.B. 15-109 on January 15, 2016 indicating that OSPb has set aside \$1.4 million

General Fund for FY 2015-16 and \$6.4 million General Fund for FY 2016-17 to implement the S.B. 15-109 recommendations.

“As noted in the letter accompanying our January 4, 2016 package of requests, this balancing package sets aside sufficient funding to fully implement the recommendations from the S.B. 15-109 At-risk Adults with Intellectual and Developmental Disabilities Mandatory Reporting Task Force. This includes General Fund set-asides of \$1.4 million in FY 2015-16 and \$6.4 million in FY 2016-17. Recognizing that the adoption of these recommendations will likely require additional legislation, we have not included a specific budget request related to S.B. 15-109. Instead, we propose an ongoing dialogue between members of the General Assembly and the Executive Branch to determine the best course of action for implementing the recommendations of the Task Force.”

Staff Recommendations – Statutory Changes

Staff does not have a recommendation on whether the Joint Budget Committee should sponsor legislation to address the concerns reported by the task force. It is staff’s opinion that these statutory changes are not related to the budgetary changes recommended in the report. Thus, the Committee may wish to consider them separately.

Staff Recommendations – Budgetary Changes

Staff recommends the following for FY 2015-16 and FY 2016-17:

S.B. 15-109 Task Force Recommendations and Staff Recommendations					
Cost Item	FY 2015-16			FY 2016-17	
	Task Force	Staff	Difference	Task Force	Staff
County Cost	\$938,322	\$0	(\$938,322)	\$3,753,289	Recommends considering all task force recommendations for FY 2016-17 during the figure setting process for FY 2016-17
State FTE Cost	37,806	0	(37,806)	160,650	
IT Licenses	900	0	(900)	17,745	
Law Enforcement / District Attorney Implementation Grant Fund	0	0	0	1,000,000	
APS Training	0	0	0	65,000	
Law Enforcement Training	75,000	75,000	0	150,000	
District Attorney Training	0	0	0	55,000	
FTE / Contract for Facilitated Training of Mandatory Reporters	75,000	20,000	(55,000)	250,000	
County FTE Deficit Funding	646,682	0	(646,682)	2,586,726	
Total	\$1,773,710	\$95,000	(\$1,678,710)	\$8,038,410	

- **County Cost** – Staff recommends rejecting the task force’s recommendation to hire an additional 47 county employees to implement mandatory reporting of abuse for individuals with intellectual and developmental disabilities for FY 2015-16 for two reasons:
 - First, mandatory reporting for at-risk adults with intellectual and developmental disabilities does not commence until July 1, 2016. Hiring new county employees now is based on an assumption that future caseload data will show that there will be an immediate need in July 2016 to have 47 new employees hired and trained in

FY 2015-16 and ready to respond to new reports of abuse. Staff is wary of recommending appropriations for new staff in a fiscal year for which a law is not applicable and for which there is no existing caseload data on which to base targeted investments to address specific issues.

- Second, staff is skeptical that the number of reports forecast to be made as a result of the implementation of S.B. 15-109 will represent an increase of 30 percent over the current number of reports. This figure, calculated by the task force, makes assumptions that are potentially, but not clearly, related. It assumes that the projected number of reports of abuse for all individuals above and below age 70 under current law for FY 2015-16 (based on less than half a year of data) can be extrapolated into the number of reports that will be made to county staff for FY 2016-17 for the at-risk adults with intellectual and developmental disabilities population. Staff is not of the opinion that the caseload for a smaller percentage of the state's population, adults with intellectual and developmental disabilities, will equal the caseload of a larger percentage of the state's population (all at-risk adults).

In terms of FY 2016-17, staff recommends that county staffing needs be considered during the FY 2016-17 figure setting process or the FY 2016-17 supplemental budget process after the law is in force and caseload data are reported.

- **State FTE Cost** – Staff recommends rejecting the task force's request for funding additional staff at the Department of Human Services for FY 2015-16. Mandatory reporting for at-risk adults with intellectual and developmental disabilities does not commence until July 1, 2016, thus the Department of Human Services should not experience an increase in workload until FY 2016-17. Staff recommends that the Department of Human Services submit a FY 2016-17 supplemental budget request if data on the number and complexity of reports of abuse against at-risk adults with intellectual and developmental disabilities illustrate a need for increased Department staffing.
- **Information Technology Licenses** – Staff recommends rejecting moneys to procure licenses of the Colorado Adult Protective Services (CAPS) data and case management system for the new State FTE proposed above for FY 2015-16. This is consistent with staff's recommendation not to add State FTE until reviewing data on the number and complexity of reports of abuse against at-risk adults with intellectual and developmental occurring after the law is in force on July 1, 2016.
- **Law Enforcement / District Attorney Implementation Grant Fund** – Staff recommends that the grant program for local governments to hire personnel within law enforcement agencies and district attorney offices with expertise in investigating crimes against vulnerable populations for FY 2016-17 be considered during the FY 2016-17, not at this time.
- **Law Enforcement Training** – Staff recommends that \$75,000 General Fund be appropriated for FY 2015-16 for the Peace Officer's Standards and Training Board to begin developing and conducting training related to investigating mistreatment of individuals with intellectual and developmental disabilities. For FY 2016-17, staff recommends appropriations

recommended by the task force for this purpose be considered during the FY 2016-17 figure setting process, not at this time.

- **District Attorney Training** – Staff recommends appropriations recommended by the task force for district attorneys and district attorney investigators to attend training related to prosecuting cases of mistreatment of individuals with intellectual and developmental disabilities be considered during the FY 2016-17 figure setting process, not at this time.
- **FTE / Contract for Facilitated Training of Mandatory Reporters** – Staff recommends an increase of \$20,000 General Fund for FY 2015-16 to the Department of Human Services to contract for an individual to begin the process of outreach to adult protective service workers, law enforcement agencies, Community Centered Boards (and providers), and other agencies to build awareness of the new law and advise on future training requirements. Staff recommends that the more wide-ranging public awareness campaign sought by the task force be considered during figure setting for FY 2016-17.
- **County FTE Deficit Funding** – Staff recommends rejecting the task force’s request for funding for the administration of county adult protective services for at-risk elders for FY 2015-16 and for FY 2016-17. This request is unrelated to the implementation of the provisions contained in S.B. 15-109. It attempts to backfill county staffing shortfalls for responding to reports of abuse in the at-risk elder population by piggy-backing on the implementation of protections against the abuse of individuals with intellectual and developmental disabilities. If staffing deficits do exist at the county level for administering protections against the abuse of the at-risk elder population, the Department of Human Services, in consultation with the counties, should submit a separate decision item to address the shortfall in moneys for this population.