



**Colorado
Legislative
Council
Staff**

SB16-169

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-1125 **Date:** July 14, 2016
Prime Sponsor(s): Sen. Martinez Humenik; **Bill Status:** Vetoed by Governor
 Cooke **Fiscal Analyst:** Amanda Hayden (303-866-4918)
 Rep. Kraft-Tharp; Landgraf

BILL TOPIC: EMERGENCY 72-HOUR MENTAL HEALTH PROCEDURES

Fiscal Impact Summary	FY 2015-2016 (Current year)	FY 2016-2017	FY 2017-2018
State Revenue			
State Expenditures	Potential cost increase and minimal workload increase.		
Appropriation Required: None.			
Future Year Impacts: Ongoing potential cost increase and minimal workload increase.			

NOTE: This bill was not enacted; therefore, the impacts identified in this analysis do not take effect.

Summary of Legislation

This bill changes emergency procedures for people dealing with mental health crises. The bill expands options for intervening professionals that take a person into custody as a result of a mental health crisis, adding that they may take a person to an emergency medical services facility in addition to a designated facility. Designated facilities are those the executive director of the Department of Human Services designates or approves for 72 hour treatment and evaluation of individuals experiencing a mental health crisis. An emergency medical services facility is defined as any hospital or health facility licensed or certified by the state to provide emergency medical services. The bill requires emergency medical services facilities to conduct an assessment of a person experiencing a mental health crisis as soon as possible and to provide treatment for the full period of time that the person is in custody. The facility may keep the individual in emergency custody up to 36 hours to determine if he or she needs to be transferred to a designated facility for 72 hour treatment and evaluation. A person may not be held in emergency custody longer than 72 hours, excluding any time required for non-psychiatric medical stabilization and treatment.

Law enforcement facilities. Current law allows a person to be taken to a law enforcement facility, such as jail, for no more than 24 hours, if emergency medical services or designated facilities are unavailable. Under the bill, a person may only be held in a law enforcement facility if neither a designated facility nor an emergency medical services facility is available and the person has demonstrated recent violent or aggressive behavior. If a designated facility is not available within 24 hours, a sheriff may petition the court for a one-time order granting an extension, not to exceed 24 hours. The bill specifies that a sworn, rather than certified, peace

officer or other appropriate staff professional must examine the person at least every 12 hours. If at any time during custody in any facility a professional person or psychiatric advance practice nurse determines that the person no longer meets the standards for emergency custody, he or she must be discharged or referred for further care.

Reporting. On or before December 31, 2016, and each July 1 thereafter, the bill requires each emergency medical services facility or law enforcement facility that has taken custody of a person or treated a person for a mental health crisis to provide an annual report to the Department of Human Services (DHS). The report must include the names and counties of the facilities, the total number of individuals held in custody, a summary of the different reasons for which individuals were held, and a summary of how many individuals were released from custody and how many were transferred to a designated facility. This information must not be made public and DHS must protect the confidentiality of all patient records.

Needs analysis. On or before September 1, 2016, the Office of Behavioral Health in DHS must convene a series of stakeholder sessions to address emergency mental health treatment needs throughout Colorado. The stakeholder group, which must consist of mental health advocacy groups, nonprofit organizations, providers, and any interested and related parties, must assist DHS in developing a needs analysis, recommendations, and a budget request for emergency mental health services. The stakeholder group must conduct these sessions within existing departmental resources. DHS must present the needs analysis, recommendations, and budget request to the General Assembly on or before January 31, 2017.

Background

According to DHS, there are 110 designated facilities throughout the state. In FY 2014-15, 125 people were held on emergency 72-hour holds at the Colorado Mental Health Institute at Pueblo (CMHIP) and 191 people were held at the Colorado Mental Health Institute at Fort Logan (CMHIFL); both are sites where the state conducts mental health evaluations. The current average daily rate at CMHIP is \$666 for adults and \$1,232 for adolescents. At the CMHIFL, the daily rate is \$868.

State Expenditures

Starting in the current FY 2015-16, this bill increases workload and potentially increases costs, as described below.

Department of Human Services (DHS). The reporting and needs analysis requirements under the bill increase workload for the Office of Behavioral Health in DHS but require no increase in appropriations.

Judicial Department. Law enforcement officers holding a person in custody for a mental health crisis can petition the court for a court order granting an extension to an emergency hold in a law enforcement facility. This provision may increase workload in trial courts by a minimal amount but requires no increase in appropriations to the Judicial Department.

Health Care Policy and Financing (HCPF). The bill may also increase costs in the Department of Health Care Policy and Financing (HCPF). If the provision of the bill allowing a person to be taken to an emergency medical services facility instead of a designated facility increases emergency room admissions for individuals enrolled in Medicaid or Child Health Plan Plus (CHP+), costs for HCPF may increase. The fiscal note assumes that the bill will have a minimal effect and that HCPF will use the annual budget process to request additional appropriations, if necessary.

Local Government Impact

The bill may increase county sheriff workload and decrease costs for county jails. The bill requires sheriffs to obtain a court order in the event that a person must be held in emergency custody in jail for longer than 24 hours. While this provision may increase workload, it may also reduce costs by allowing sheriffs to jail rather than provide around the clock supervision of individuals held in emergency custody while waiting for a designated facility to become available. The bill also increases workload for law enforcement facilities that hold individuals in emergency custody, as these incidents must be documented and reported annually to DHS.

Effective Date

The bill was vetoed by the Governor on June 9, 2016.

State and Local Government Contacts

Corrections
Information Technology
Sheriffs

Counties
Judicial

Human Services
Municipalities