

**As Reported by the House State and Local Government Committee**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**Am. S. B. No. 71**

**Senator Manning**

**Cosponsors: Senators Brown, Hoagland, Huffman, Yuko, Tavares, Hackett, Beagle, Burke, Coley, Dolan, Eklund, Hite, Obhof, O'Brien, Oelslager, Terhar, Wilson Representatives Anielski, Hambley, Carfagna**

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**A BILL**

To amend the versions of sections 340.03 and 1  
340.041 of the Revised Code scheduled to take 2  
effect on July 1, 2017, to allow a board of 3  
alcohol, drug addiction, and mental health 4  
services to authorize its executive director to 5  
execute contracts valued at \$25,000 or less 6  
without the board's prior approval and to allow 7  
temporary cash transfers to the Targeting 8  
Addiction Assistance Fund. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That the versions of sections 340.03 and 10  
340.041 of the Revised Code scheduled to take effect on July 1, 11  
2017, be amended to read as follows: 12

**Sec. 340.03.** (A) Subject to rules issued by the director 13  
of mental health and addiction services after consultation with 14  
relevant constituencies as required by division (A)(10) of 15  
section 5119.21 of the Revised Code, each board of alcohol, drug 16  
addiction, and mental health services shall: 17

(1) Serve as the community addiction and mental health planning agency for the county or counties under its jurisdiction, and in so doing it shall:

(a) Evaluate the need for facility services, addiction services, mental health services, and recovery supports;

(b) In cooperation with other local and regional planning and funding bodies and with relevant ethnic organizations, evaluate strengths and challenges and set priorities for addiction services, mental health services, and recovery supports. A board shall include treatment and prevention services when setting priorities for addiction services and mental health services. When a board sets priorities for addiction services, the board shall consult with the county commissioners of the counties in the board's service district regarding the services described in section 340.15 of the Revised Code and shall give priority to those services, except that those services shall not have a priority over services provided to pregnant women under programs developed in relation to the mandate established in section 5119.17 of the Revised Code.

(c) In accordance with guidelines issued by the director of mental health and addiction services under division (F) of section 5119.22 of the Revised Code, annually develop and submit to the department of mental health and addiction services a community addiction and mental health plan that addresses both of the following:

(i) The needs of all residents of the district currently receiving inpatient services in state-operated hospitals, the needs of other populations as required by state or federal law or programs, and the needs of all children subject to a

determination made pursuant to section 121.38 of the Revised Code; 48  
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(ii) The department's priorities for facility services, 50  
addiction services, mental health services, and recovery 51  
supports during the period for which the plan will be in effect. 52  
The department shall inform all of the boards of the 53  
department's priorities in a timely manner that enables the 54  
boards to know the department's priorities before the boards 55  
develop and submit the plans. 56

In alcohol, drug addiction, and mental health service 57  
districts that have separate alcohol and drug addiction services 58  
and community mental health boards, the alcohol and drug 59  
addiction services board shall submit a community addiction plan 60  
and the community mental health board shall submit a community 61  
mental health plan. Each board shall consult with its 62  
counterpart in developing its plan and address the interaction 63  
between the local addiction and mental health systems and 64  
populations with regard to needs and priorities in developing 65  
its plan. 66

The department shall approve or disapprove the plan, in 67  
whole or in part, in accordance with division (G) of section 68  
5119.22 of the Revised Code. Eligibility for state and federal 69  
funding shall be contingent upon an approved plan or relevant 70  
part of a plan. 71

If a board determines that it is necessary to amend an 72  
approved plan, the board shall submit a proposed amendment to 73  
the director. The director shall approve or disapprove all or 74  
part of the amendment in accordance with division (H) of section 75  
5119.22 of the Revised Code. 76

The board shall operate in accordance with the plan 77  
approved by the department. 78

(d) Promote, arrange, and implement working agreements 79  
with social agencies, both public and private, and with judicial 80  
agencies. 81

(2) Investigate, or request another agency to investigate, 82  
any complaint alleging abuse or neglect of any person receiving 83  
addiction services, mental health services, or recovery supports 84  
from a community addiction services provider or community mental 85  
health services provider or alleging abuse or neglect of a 86  
resident receiving addiction services or with mental illness or 87  
severe mental disability residing in a residential facility 88  
licensed under section 5119.34 of the Revised Code. If the 89  
investigation substantiates the charge of abuse or neglect, the 90  
board shall take whatever action it determines is necessary to 91  
correct the situation, including notification of the appropriate 92  
authorities. Upon request, the board shall provide information 93  
about such investigations to the department. 94

(3) For the purpose of section 5119.36 of the Revised 95  
Code, cooperate with the director of mental health and addiction 96  
services in visiting and evaluating whether the certifiable 97  
services and supports of a community addiction services provider 98  
or community mental health services provider satisfy the 99  
certification standards established by rules adopted under that 100  
section; 101

(4) In accordance with criteria established under division 102  
(D) of section 5119.22 of the Revised Code, conduct program 103  
audits that review and evaluate the quality, effectiveness, and 104  
efficiency of addiction services, mental health services, and 105  
recovery supports provided by community addiction services 106

providers and community mental health services providers under 107  
contract with the board and submit the board's findings and 108  
recommendations to the department of mental health and addiction 109  
services; 110

(5) In accordance with section 5119.34 of the Revised 111  
Code, review an application for a residential facility license 112  
and provide to the department of mental health and addiction 113  
services any information about the applicant or facility that 114  
the board would like the department to consider in reviewing the 115  
application; 116

(6) Audit, in accordance with rules adopted by the auditor 117  
of state pursuant to section 117.20 of the Revised Code, at 118  
least annually all programs, addiction services, mental health 119  
services, and recovery supports provided under contract with the 120  
board. In so doing, the board may contract for or employ the 121  
services of private auditors. A copy of the fiscal audit report 122  
shall be provided to the director of mental health and addiction 123  
services, the auditor of state, and the county auditor of each 124  
county in the board's district. 125

(7) Recruit and promote local financial support for 126  
addiction services, mental health services, and recovery 127  
supports from private and public sources; 128

(8) In accordance with guidelines issued by the department 129  
as necessary to comply with state and federal laws pertaining to 130  
financial assistance, approve fee schedules and related charges 131  
or adopt a unit cost schedule or other methods of payment for 132  
addiction services, mental health services, and recovery 133  
supports provided by community addiction services providers and 134  
community mental health services providers that have contracted 135  
with the board under section 340.036 of the Revised Code; 136

(9) Submit to the director and the county commissioners of 137  
the county or counties served by the board, and make available 138  
to the public, an annual report of the addiction services, 139  
mental health services, and recovery supports under the 140  
jurisdiction of the board, including a fiscal accounting; 141

(10) Establish a method for evaluating referrals for 142  
court-ordered treatment and affidavits filed pursuant to section 143  
5122.11 of the Revised Code in order to assist the probate 144  
division of the court of common pleas in determining whether 145  
there is probable cause that a respondent is subject to court- 146  
ordered treatment and whether alternatives to hospitalization 147  
are available and appropriate; 148

(11) Designate the treatment services, provider, facility, 149  
or other placement for each person involuntarily committed to 150  
the board pursuant to Chapter 5122. of the Revised Code. The 151  
board shall provide the least restrictive and most appropriate 152  
alternative that is available for any person involuntarily 153  
committed to it and shall assure that the list of addiction 154  
services, mental health services, and recovery supports 155  
submitted and approved in accordance with division (B) of 156  
section 340.08 of the Revised Code are available to severely 157  
mentally disabled persons residing within its service district. 158  
The board shall establish the procedure for authorizing payment 159  
for the services and supports, which may include prior 160  
authorization in appropriate circumstances. In accordance with 161  
section 340.037 of the Revised Code, the board may provide 162  
addiction services and mental health services directly to a 163  
severely mentally disabled person when life or safety is 164  
endangered and when no community addiction services provider or 165  
community mental health services provider is available to 166  
provide the service. 167

(12) Ensure that housing built, subsidized, renovated, 168  
rented, owned, or leased by the board or a community addiction 169  
services provider or community mental health services provider 170  
has been approved as meeting minimum fire safety standards and 171  
that persons residing in the housing have access to appropriate 172  
and necessary services, including culturally relevant services, 173  
from a community addiction services provider or community mental 174  
health services provider. This division does not apply to 175  
residential facilities licensed pursuant to section 5119.34 of 176  
the Revised Code. 177

(13) Establish a mechanism for obtaining advice and 178  
involvement of persons receiving addiction services, mental 179  
health services, or recovery supports on matters pertaining to 180  
services and supports in the alcohol, drug addiction, and mental 181  
health service district; 182

(14) Perform the duties required by rules adopted under 183  
section 5119.22 of the Revised Code regarding referrals by the 184  
board or community mental health services providers under 185  
contract with the board of individuals with mental illness or 186  
severe mental disability to class two residential facilities 187  
licensed under section 5119.34 of the Revised Code and effective 188  
arrangements for ongoing mental health services for the 189  
individuals. The board is accountable in the manner specified in 190  
the rules for ensuring that the ongoing mental health services 191  
are effectively arranged for the individuals. 192

(B) Each board of alcohol, drug addiction, and mental 193  
health services shall establish such rules, operating 194  
procedures, standards, and bylaws, and perform such other duties 195  
as may be necessary or proper to carry out the purposes of this 196  
chapter. 197

(C) A board of alcohol, drug addiction, and mental health services may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established, and may hold and apply it according to the terms of the gift, grant, or bequest. All money received, including accrued interest, by gift, grant, or bequest shall be deposited in the treasury of the county, the treasurer of which is custodian of the alcohol, drug addiction, and mental health services funds to the credit of the board and shall be available for use by the board for purposes stated by the donor or grantor.

(D) No member or employee of a board of alcohol, drug addiction, and mental health services shall be liable for injury or damages caused by any action or inaction taken within the scope of the member's official duties or the employee's employment, whether or not such action or inaction is expressly authorized by this section or any other section of the Revised Code, unless such action or inaction constitutes willful or wanton misconduct. Chapter 2744. of the Revised Code applies to any action or inaction by a member or employee of a board taken within the scope of the member's official duties or employee's employment. For the purposes of this division, the conduct of a member or employee shall not be considered willful or wanton misconduct if the member or employee acted in good faith and in a manner that the member or employee reasonably believed was in or was not opposed to the best interests of the board and, with respect to any criminal action or proceeding, had no reasonable cause to believe the conduct was unlawful.

(E) The meetings held by any committee established by a board of alcohol, drug addiction, and mental health services shall be considered to be meetings of a public body subject to



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| section 121.22 of the Revised Code.                                       | 229 |
| <u>(F) (1) A board of alcohol, drug addiction, and mental</u>             | 230 |
| <u>health services may establish a rule, operating procedure,</u>         | 231 |
| <u>standard, or bylaw to allow the executive director of the board</u>    | 232 |
| <u>to execute both of the following types of contracts valued at</u>      | 233 |
| <u>twenty-five thousand dollars or less, as determined by the</u>         | 234 |
| <u>board, on behalf of the board without the board's prior</u>            | 235 |
| <u>approval:</u>  | 236 |
| <u>(a) Emergency contracts for clinical services or recovery</u>          | 237 |
| <u>support services;</u>  | 238 |
| <u>(b) Standard service contracts pertaining to the board's</u>           | 239 |
| <u>operations.</u>  | 240 |
| <u>(2) If a board establishes a rule, operating procedure,</u>            | 241 |
| <u>standard, or bylaw under division (F) (1) of this section, both</u>    | 242 |
| <u>of the following shall be the case:</u>                                | 243 |
| <u>(a) The board shall define the scope of contracts</u>                  | 244 |
| <u>described in divisions (F) (1) (a) and (b) of this section in that</u> | 245 |
| <u>rule, operating procedure, standard, or bylaw.</u>                     | 246 |
| <u>(b) The board shall disclose the existence of a contract</u>           | 247 |
| <u>executed pursuant to the rule, operating procedure, standard, or</u>   | 248 |
| <u>bylaw at the first board meeting that occurs after the contract</u>    | 249 |
| <u>was executed and ensure that a record of that disclosure is</u>        | 250 |
| <u>included in the written minutes of that meeting.</u>                   | 251 |
| <b>Sec. 340.041.</b> In addition to such other duties as may be           | 252 |
| lawfully imposed, the executive director of a board of alcohol,           | 253 |
| drug addiction, and mental health services shall:                         | 254 |
| (A) Serve as executive officer of the board and, subject                  | 255 |
| to the prior approval of the board for each contract, <u>except</u>       | 256 |

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| <u>contracts, if any, to which division (F) of section 340.03 of</u> | 257 |
| <u>the Revised Code applies, execute contracts on its behalf;</u>    | 258 |
| (B) Supervise addiction services, mental health services,            | 259 |
| recovery supports, and facilities provided, operated,                | 260 |
| contracted, or supported by the board to the extent of               | 261 |
| determining that services, supports, and facilities are being        | 262 |
| administered in conformity with this chapter and rules of the        | 263 |
| director of mental health and addiction services;                    | 264 |
| (C) Provide consultation to community addiction services             | 265 |
| providers and community mental health services providers;            | 266 |
| (D) Recommend to the board the changes necessary to                  | 267 |
| increase the effectiveness of addiction services, mental health      | 268 |
| services, and recovery supports and other matters necessary or       | 269 |
| desirable to carry out this chapter;                                 | 270 |
| (E) Employ and remove from office such employees and                 | 271 |
| consultants in the classified civil service and, subject to the      | 272 |
| approval of the board, employ and remove from office such other      | 273 |
| employees and consultants as may be necessary for the work of        | 274 |
| the board, and fix their compensation and reimbursement within       | 275 |
| the limits set by the salary schedule and the budget approved by     | 276 |
| the board;   | 277 |
| (F) Encourage the development and expansion of preventive,           | 278 |
| treatment, and consultative services, as well as recovery            | 279 |
| supports, in the fields of addiction services and mental health      | 280 |
| services with emphasis on continuity of care;                        | 281 |
| (G) Prepare for board approval an annual report of the               | 282 |
| addiction services, mental health services, recovery supports,       | 283 |
| and facilities under the jurisdiction of the board, including a      | 284 |
| fiscal accounting of all services and supports;                      | 285 |

(H) Conduct such studies as may be necessary and 286  
practicable for the promotion of mental health, promotion of 287  
addiction services, and the prevention of mental illness, 288  
emotional disorders, and addiction; 289

(I) Authorize the county auditor, or in a joint-county 290  
district the county auditor designated as the auditor for the 291  
district, to issue warrants for the payment of board obligations 292  
approved by the board, provided that all payments from funds 293  
distributed to the board by the department of mental health and 294  
addiction services are in accordance with the budget submitted 295  
pursuant to section 340.08 of the Revised Code, as approved by 296  
the department of mental health and addiction services. 297

**Section 2.** That the existing versions of sections 340.03 298  
and 340.041 of the Revised Code scheduled to take effect on July 299  
1, 2017, are hereby repealed. 300

**Section 3.** Sections 1 and 2 of this act take effect on 301  
July 1, 2017. 302

**Section 4.** In fiscal year 2018 and fiscal year 2019, the 303  
Director of Budget and Management may make temporary transfers 304  
of cash from the General Revenue Fund to the Targeting Addiction 305  
Assistance Fund (Fund 5TZ0) as necessary to ensure the 306  
implementation of the appropriated program in Fund 5TZ0. Prior 307  
to the end of fiscal year 2019, the Director shall determine the 308  
available balance in Fund 5TZ0 and transfer the lesser of the 309  
available balance in Fund 5TZ0 or cash equal to the amount 310  
previously transferred to Fund 5TZ0 from the General Revenue 311  
Fund back to the General Revenue Fund. 312