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H.B. 58
(I_136_0402-5)
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 58's Bill Analysis

Version: In House Community Revitalization

Primary Sponsors: Reps. Pizzulli and Jarrells

Local Impact Statement Procedure Required: No

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Highlights

- The bill converts the program used by the Department of Behavioral Health (DBH) to monitor recovery housing residences into a state certification program. This could result in administrative costs to DBH. Costs will depend on the rules adopted, the number of programs seeking certification, and whether DBH accepts accreditation from accrediting organizations. If fees for certifications or violations are collected, these could help offset costs.
- The bill modifies DBH's current requirement to maintain a registry of recovery housing residences by requiring that the registry contains comprehensive and consolidated information. This will result in administrative costs to DBH depending on how much additional data needs to be collected and how often the registry needs to be updated.
- The bill requires DBH to permit alcohol, drug addiction, and mental health services (ADAMHS) boards to participate in an investigation. This may result in additional costs for ADAMHS boards if a board chooses to participate.
- The bill establishes a process for seeking injunctions against violators that begins with local prosecuting attorneys, rather than the Attorney General. This will shift some costs from the Attorney General to those prosecuting attorneys, depending on how often this process is used.
- The bill requires that the transportation costs of individuals who fail to comply with court-ordered addiction treatment be paid by the probate court that ordered the treatment under circumstances specified by the bill. This could result in transportation costs for local courts. The costs will depend on how often this occurs and the length of travel.

Detailed Analysis

State certification

The bill modifies the system that the Department of Behavioral Health (DBH) uses to monitor the establishment and operation of recovery housing residences. Under the existing monitoring system, DBH accepts accreditation from other organizations instead of establishing its own certification program. The bill converts this monitoring system into a direct requirement for DBH to administer a program for state certification of recovery housing residences. However, the bill retains the existing system for one year, during which the DBH Director must adopt new rules for state certification of recovery housing residences. Initial rules for certification must be adopted within six months after the bill's effective date, and once finalized, DBH is permitted to begin accepting applications for certification in anticipation of the new requirements going into effect. The bill also requires DBH's rules to include certain topics. Additionally, the bill eliminates a provision of the existing system in which a phase-in period for new operators of recovery housing residences to accept residents for up to 18 months while the operator is actively engaged in efforts to obtain accreditation; therefore, the bill requires new operators to obtain certification before any residents can be accepted.

The bill permits DBH to accept accreditation from an organization it considers appropriate, under certain conditions, but the bill also limits the use of these bodies to the portion of the certification program that involves determining whether state standards have been met. If an accepted accrediting organization takes an adverse action against a recovery housing residence, the bill requires the residence's operator to notify DBH.

DBH could experience additional costs related to the modification of the certification program. The scope of these costs will depend on several factors, including the rules adopted and the number of programs that seek certification, as well as if DBH chooses to accept accreditation from a specified organization. These costs may be offset by any fee or fine revenue collected, assuming DBH's rules establish fees for these activities. The bill retains the existing system for one year.

Referrals

The bill prohibits, in the case of services covered by a health benefit plan or Medicaid, any form of kickback for making referrals involving recovery housing residences. Violations could result in a misdemeanor violation. However, these prohibitions are similar to federal prohibitions, so this provision is not expected to have an impact.

The bill also establishes additional mechanisms that may be used in enforcing prohibitions against improper referrals by community providers. DBH could experience administrative costs related to any investigations conducted. Additionally, there may be court costs for any resulting criminal penalties. These costs may be offset by fine revenue collected.

Registry

The bill modifies DBH's existing duty to establish and maintain a registry of recovery housing residences by expanding the amount of information to be included and requires DBH to update the information regularly. The bill states that the registry is to serve as a comprehensive and consolidated resource. Additionally, if an accrediting agency is used, DBH must coordinate the information in the registry with the information held by the agency. This will result in

additional administrative costs. Total costs will depend on how these new requirements differ from current efforts, such as the type of information collected and how often the registry is updated now.

Investigation of complaints

The bill modifies the procedures that apply under DBH's existing duty to receive and investigate complaints regarding recovery housing residences by requiring the Department to permit the appropriate alcohol, drug addiction, and mental health services (ADAMHS) board to participate in an investigation and requires that an investigation must be initiated within three days after a complaint is received and that if an investigation remains pending after 45 days, the DBH Director must ask the appropriate prosecuting attorney to proceed under the procedures for seeking an injunction. Additionally, the findings of the investigation must be included in the recovery housing registry. Also, the bill maintains DBH's authority to contract with an accrediting organization to conduct investigations of complaints, but the procedures for reporting results to DBH are changed to require a contractor to submit reports to DBH on the status of pending investigations and the findings from completed investigations at intervals established by the terms of the contract. Depending on whether an ADAMHS board chooses to participate in an investigation, a board would experience additional administrative costs.

Request for injunctions

The bill replaces the current system in which the Attorney General has jurisdiction over seeking an injunction against a violator with a localized process. This process involves requesting the appropriate prosecuting attorney to file a petition in the court of common pleas of the county where the violation is occurring. However, the bill also allows the prosecuting attorney to ask the Attorney General to file the petition. Additionally, the bill permits injunctions to be sought for not complying with DBH's certification standards, such as matters involving the health, safety, and welfare of residents. This provision might shift associated costs from the Attorney General to local entities. The costs will depend on whether a prosecuting attorney files a petition himself or herself, the number of injunctions sought, and the scope of the injunctions.

Ohio Recovery Housing Task Force

The bill creates the Ohio Recovery Housing Task Force to study and make recommendations on matters pertaining to recovery housing residences and lists the areas that must be considered and membership of the Task Force. The bill requires the Task Force to prepare a report on its findings and recommendations and submit it to the General Assembly.

Community addiction services providers

The bill requires full disclosure by a community addiction services provider of the specific services the provider offers in certain circumstances. Additionally, the bill requires a community addiction services provider that operates an inpatient facility to provide information and assistance detailed in the bill when an individual chooses to leave the facility against the advice of treatment providers.

Response to noncompliance with court-ordered treatment

The bill modifies the procedures used when an individual fails to comply with court-ordered addiction treatment by: (1) expanding the notification requirements, and (2) authorizing the court to order a peace officer to detain the individual and to transport the individual to the

individual's original residence. The bill maintains a provision requiring that the cost of the transport be included in the costs of the individual's treatment, but to address circumstances when no treatment has been provided, the bill requires that the transportation costs be paid by the probate court that ordered the treatment. This could result in additional transportation costs to applicable courts depending on how often this occurs.

Determinations of residency

If a dispute over residency is referred to DBH for investigation and determination, but the case involves Medicaid coverage, the bill requires DBH to collaborate with the Department of Medicaid. There could be some administrative costs relating to this provision if collaboration in these circumstances does not currently occur.

Synopsis of Fiscal Effect Changes

In the previous substitute bill (I_136_0402-4), the Department of Behavioral Health (DBH) was authorized to accept accreditation from an organization DBH considered appropriate. The current substitute bill, I_136_0402-5, still allows DBH to accept accreditation, but establishes additional conditions that must be met for this acceptance including that the organization must: conduct in-person, onsite visits; perform comprehensive policy reviews; and investigate complaints and revoke accreditation when warranted. Any fiscal impacts will depend on if accrediting organizations currently meet these requirements. If they do, there should be no impacts. If they do not, DBH will not be allowed to use their accreditation as evidence that a recovery house has met certain standards and will instead have to determine this itself using its own resources.

The previous substitute bill required each investigation of a complaint to be completed within 14 days after the complaint is received. The current substitute bill replaces the 14-day deadline with the following: an investigation must be initiated within three days after a complaint is received, and if an investigation remains pending after 45 days, the DBH Director must ask the appropriate prosecuting attorney to seek an injunction. Additionally, any organization under contract with DBH to conduct investigations must submit reports on the status of pending investigations. Removing the 14-day deadline for investigations may make it less likely that overtime would be necessary to complete investigations.

FNHB0058H2-136/zg