Dept of Social and Health Services

Program 030 - Mental Health

2023-25 First Supplemental Budget Session

Policy Level - 3N - Forensic Bed Capacity Expansion

Agency Recommendation Summary

The Department of Social and Health Services (DSHS), Behavioral Health Administration (BHA) submits a placeholder to operationalize additional state operated inpatient psychiatric beds. A plan for forensic bed expansion is in development to maximize the use of state hospital beds for competency restoration services and reduce the wait times of individuals waiting in jail for services.

Fiscal Summary

Fiscal Summary *Dollars in Thousands*	Fiscal Years		Biennial	Fiscal Years		Biennial
	2024	2025	2023-25	2026	2027	2025-27
Operating Expenditures						
Fund 001 - 1	$0	$0	**$0**	$0	$0	**$0**
Total Expenditures	**$0**	**$0**	**$0**	**$0**	**$0**	**$0**

Decision Package Description

PROBLEM STATEMENT:

Trueblood, et. al. v. DSHS is a class action lawsuit challenging unconstitutional delays in competency evaluation and restoration services for individuals detained in city and county jails. In February 2018, DSHS engaged in a settlement negotiation process, resulting in a contempt settlement agreement. The goal of the settlement is to ensure the state serves Class Members timely, as well as reduce the number of potential or existing Class Members. Under the agreement, the majority of the monthly contempt fines are held in abeyance pending the State's ongoing compliance with the agreement.

On December 22, 2022, the Plaintiffs filed a Motion for Material Breach of Contempt Settlement Agreement and Motion for Civil Contempt. Plaintiffs alleged that the high number of felony civil conversion patients occupying forensic beds, which would otherwise provide services to Trueblood class members, was a breach of DSHS's obligations under the settlement and court orders. At the peak, over 180 forensic beds were occupied by civil conversion patients. On July 7th, 2023, the federal district court issued an order finding the State in breach of the contempt settlement agreement over a nine-month period, and in further contempt of the court's orders. The court ordered limitations on state hospital admissions, discharge, or transfer of civil patients at the state hospitals, payment of over $100 million in contempt fines (out of the $290 million currently suspended), and new contempt fines to accrue on civil patients who remain in forensic beds--at the rate of $1,000 per day after 21 days and $2,000 per day after 28 days.

On August 14th, 2023, the federal district court amended the July 7th order. The amended order specifies that payment of additional per diem fines described above begins after September 5th, 2023, for those civil patients not transferred out of forensic beds. DSHS also requested the court to allow payment of the $100 million in contempt fines in April 2024. There was no opposition from Plaintiffs and DSHS's motion is pending the court's decision.

The new contempt fines imposed by the July 7th order are significant. BHA had approximately 152 civil patients in forensic beds in February 2023, and has recently reduced that to less than 50 civil patients. For context, if all 50 civil patients accrue fines at $2,000 per day, the fines imposed will be $100,000 per day, or approximately $3.04 million per month ($36.5 million per year).

DSHS looked broadly across the state to identify additional bed capacity options to open immediately and are proposing seven different options.

PROPOSED SOLUTION:

Expand forensic bed capacity in the state hospital system.

EXPECTED RESULTS:

Funding this request will result in more forensic competency restoration beds being added to the state hospital system to serve patients waiting

in jail for timely competency restoration services. This additional bed capacity will reduce waitlist times and the subsequent cost of fines paid by the State each month.

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Assumptions and Calculations

Expansion, Reduction, Elimination or Alteration of a current program or service:

None

Detailed Assumptions and Calculations:

None

Workforce Assumptions:

None

Strategic and Performance Outcomes

Strategic Framework:

STRATEGIC FRAMEWORK:

BHA 3 - Reduce the demand for and provide timely competency evaluation and restoration services to forensic behavioral health patients.

GOVERNOR'S RESULT WASHINGTON GOALS:

Goal 4. Healthy and Safe Communities, 4.1 Reduce Homelessness

Performance Outcomes:

See Expected Results

Equity Impacts

Community outreach and engagement:

DSHS anticipates support from the Trueblood impacted class members and their families, as well as non-governmental, civil, and legal rights groups, focused on preserving the legal and constitutional rights of individuals.

Disproportional Impact Considerations:

At this time, there are no identified populations or communities who will be marginalized or disproportionately impacted by this proposal. Should it become apparent that there are disparities, appropriate action will be taken.

Target Populations or Communities:

BHA provides services for individuals from across the state. ESH is located in Medical Lake in Eastern Washington, and WSH is located in Lakewood in Western Washington. Individuals who are awaiting inpatient admission to a DSHS BHA forensic services program at a state hospital, from a jail or from the community will be affected. Funding this request increases equity in both health and human services and state and local practices by ensuring BHA can comply with the settlement agreement.

Other Collateral Connections

Puget Sound Recovery:

Not applicable

State Workforce Impacts:

None

Intergovernmental:

The Health Care Authority (HCA) and Criminal Justice Training Commission (CJTC) have worked closely with DSHS in providing support as each agency works with and has close contact with this same client population. With an increased capacity for individuals awaiting placement for inpatient competency services, Class Members across the state will experience a decrease in wait times. Additionally, DSHS will continue to work toward substantial compliance and a reduction in contempt sanctions. Trueblood program staff continue to update local Tribes about implemented programs. The provisions for the Agreement continue to receive support from city and county governments, jails, courts, law enforcement, prosecutors, and public defenders.

Stakeholder Response:

DSHS anticipates support from the Trueblood impacted class members and their families, as well as non-governmental, civil, and legal rights groups, focused on preserving the legal and constitutional rights of individuals.

State Facilities Impacts:

None

Changes from Current Law:

None

Legal or Administrative Mandates:

This request is in direct response to the July 7, 2023, court order in the Trueblood lawsuit, where DSHS was found in contempt of federal court.

HEAL Act Agencies Supplemental Questions

Not applicable

IT Addendum

Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?

No

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