

Fiscal Estimate Narratives

DOC 10/29/2013

LRB Number	13-2669/1	Introduction Number	AB-0451	Estimate Type	Original
Description Creating a mechanism for an interested person to request an emergency stabilization and providing a penalty					

Assumptions Used in Arriving at Fiscal Estimate

Under current law, a law enforcement officer or certain other individual may take a person into custody if the officer or individual believes the person is mentally ill, drug dependent or developmentally disabled and meets certain criteria. The officer or other individual must provide a statement detailing the circumstances leading to the belief that the individual must be taken into custody.

Under this bill, the term "emergency stabilization" in statutes is substituted for the term "emergency detention." This bill creates a new procedure for initiating an emergency stabilization, but does not replace current procedures. This bill allows any person to contact the county department that is responsible for approving the need for emergency stabilization and request that the department work with law enforcement to initiate and approve an emergency stabilization for an individual.

This bill provides that a formal request for the county department and law enforcement to initiate and approve an emergency stabilization must be on a Department of Health Services (DHS) form and approved by the Department of Justice (DOJ). If a county department does not agree to approve the emergency stabilization, or if law enforcement does not agree to initiate, the county must respond to the requester. Any person may petition a court with appropriate jurisdiction to order an emergency stabilization. Within 24 hours, the court shall either deny or grant the emergency stabilization.

Under this bill, if the court determines there is probable cause to believe an individual meets the criteria for emergency stabilization and the corporation counsel did not actively advocate for a finding of probable cause, then the court shall order the corporation counsel's county to pay for all court costs and petitioner's attorney fees related to the determination of probable cause. A special counsel will replace the corporation counsel for the remaining proceedings and will be reimbursed by the corporation counsel's county for all costs incurred.

Under current law, any person who signs an emergency detention statement knowing it contains false information is guilty of a felony and subject to a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both. Under this bill, whoever submits a formal request for emergency stabilization or files a petition for judicially ordered emergency stabilization knowing it contains false information is guilty of a felony and subject to a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

Falsifying information through the additional procedure of filing a petition for judicially ordered emergency stabilization is criminalized with potential imprisonment through this bill. It is possible that the procedure of petition provides an additional opportunity to falsify information. The state could potentially experience an increase in prison costs due to additional imprisonment terms, however an increase is unlikely, and state costs are anticipated to remain unchanged.

It is anticipated that this bill would result in no change to costs for local jails, although counties may bear the corporation counsel's court costs. Specific jails may see cost increases or decreases depending on whether the number of emergency stabilizations increases or decreases for those jails.

Long-Range Fiscal Implications