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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
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Office

**S.B. 58**  
**(I\_133\_0820-3)**  
**133<sup>rd</sup> General Assembly**

## **Fiscal Note & Local Impact Statement**

[Click here for S.B. 58's Bill Analysis](#)

**Version:** In Senate Judiciary

**Primary Sponsor:** Sen. Gavarone

**Local Impact Statement Procedure Required:** No

Ryan Sherrock, Economist and other LSC staff

### **Highlights**

- Inpatient competency evaluations will no longer be conducted at facilities operated by the Ohio Department of Mental Health and Addiction Services (OhioMHAS) or the Ohio Department of Developmental Disabilities (ODODD) for defendants charged with nonviolent misdemeanors or the court determines that the defendant is in need of immediate hospitalization. Approximately 15 defendants with nonviolent misdemeanor charges received inpatient competency evaluations at these facilities during calendar year 2018.
- Courts could be impacted assuming that a defendant is sent for an evaluation at a private center instead of an OhioMHAS or ODODD center. The impact will depend on whether the private facility's costs are higher or lower than the facilities prohibited under the bill.
- County alcohol, drug addiction, and mental health services boards are included among the entities to which a defendant, who has been ordered to undergo treatment or continuing evaluation and treatment, may be committed.
- The bill appropriates \$250,000 in both FY 2020 and FY 2021 in new GRF line item 336427, Guardianships, under OhioMHAS.

### **Detailed Analysis**

#### **Procedure for court-ordered competency examinations**

The bill prohibits a court from ordering a criminal defendant to undergo inpatient competency evaluations at a center, program, or facility operated or certified by OhioMHAS or ODODD unless the defendant has been charged with a felony or an offense of violence or unless the court determines the defendant is in need of immediate hospitalization.

If a court, prosecutor, or defense attorney raises the question regarding a defendant's competency to stand trial, the court may request that a competency evaluation be conducted by a community forensic psychiatry center. Ohio has ten community forensic psychiatry centers, which provide forensic evaluation services for Ohio's court system. Most evaluations conducted by these centers are completed in the community or in the jail. When an inpatient evaluation is ordered, an individual is sent to one of OhioMHAS's six state psychiatric hospitals. If a defendant appears to have an intellectual disability, then an evaluation may be conducted to determine this. ODODD typically conducts such competency evaluations in the community or in the facility in which the individual is being held. If an inpatient competency evaluation were conducted, it would be conducted at one of ODODD's eight developmental centers.

OhioMHAS estimates that for calendar year 2018,<sup>1</sup> 15 individuals had been charged with a nonviolent misdemeanor and ordered to receive an inpatient evaluation at a state OhioMHAS hospital. In FY 2017, the average daily cost per resident was \$581.42.<sup>2</sup> If all 15 of these individuals stayed the full 20 days, the inpatient evaluation cost would be approximately \$174,000 (15 x \$581.42). While the cost of inpatient hospital stays is covered under GRF line item 334412, Hospital Services, it appears that courts may reimburse for at least some of these costs.

ODODD indicated that they rarely conduct inpatient competency evaluations for individuals charged with a nonviolent misdemeanor. Due to the rarity of evaluations in these circumstances, the bill should have a minimal to negligible fiscal impact to ODODD.

Continuing law states that the cost of evaluations are to be borne by the legislative authority of the court – the municipality or county, depending on the court – and are taxed as court costs in the case; therefore, except for cases of indigence, the costs for evaluations are recovered by the court as costs charged to the offender. If a defendant is sent to a private facility for an evaluation that would have otherwise been sent to a facility prohibited under the bill, the impact will depend on whether the costs at the private facility are higher or lower than at the prohibited facilities. The magnitude of the impact on the courts, if any, is uncertain.

## **Place of commitment**

The bill specifies that if the court orders the defendant to undergo treatment or continuing evaluation and treatment, county boards of alcohol, drug addiction, and mental health services (ADAMHS) are included among the entities to which a defendant be committed. Currently, probate courts may commit a defendant to an ADAMHS board for civil cases.<sup>3</sup> This would also allow criminal courts to commit a defendant to an ADAMHS board. Thus, ADAMHS boards might realize an increase in expenditures, assuming that the board would be responsible for costs. Additionally, OhioMHAS must inform the court and prosecutor of that placement within 48 hours prior to placing the defendant rather than obtaining court approval following a

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<sup>1</sup> This figure was provided by OhioMHAS on December 13, 2018.

<sup>2</sup> OhioMHAS's FY 2018 Annual Report – <https://spark.adobe.com/page/zkP6u3LYJyZKj/>.

<sup>3</sup> According to the Ohio Association of County Behavioral Health Authorities.

hearing as under current law. There may be a minimal decrease in administrative costs if OhioMHAS no longer has to seek approval through the courts.

## **Guardianships**

The bill allows the court, if the court or prosecutor files an affidavit for civil commitment for the defendant with the probate court, to enter an interim order of civil commitment for the defendant, pending a hearing in the probate court within 30 days and allows the court to appoint a limited guardian for the purpose of making treatment decisions. Additionally, the bill specifies that the limited guardianship terminates upon the probate court's disposition of the affidavit for civil commitment. The bill appropriates \$250,000 in both FY 2020 and FY 2021 in new GRF line item 336427, Guardianships, under OhioMHAS. The line item will be used to help pay the costs associated with the appointment of such guardians.