

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:
LFC@NMLEGIS.GOV
and
DFA@STATE.NM.US

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 2024-01-23
Bill No: SB142

Sponsor(s) George K. Muñoz
:

Agency Name CYFD 69000
and Code
Number:
Person Writing Drew Roybal-Chavez
Analysis:

Short BEHAVIORAL HEALTH
Title: FACILITY NOTIFICATION

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	0	\$0		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$198.5K	\$198.5K	\$397.0	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation

Act:

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: This bill requires residential behavioral health facilities to attempt to obtain contact information for a family member of a patient admitted into the facility and to allow patients the opportunity to notify the patient’s family that the patient has been admitted to the facility. A residential behavioral health facility that fails to comply with the requirements of this section shall be assessed a civil penalty not to exceed seven hundred fifty dollars (\$750). For any subsequent violation of this section, the residential behavioral health facility shall be assessed a civil penalty not to exceed one thousand dollars (\$1,000).

FISCAL IMPLICATIONS

If the Licensing and Certification Authority Bureau (LCA), within the Children Youth and Families Department, is one of the regulatory bodies responsible for monitoring and enforcing compliance with this proposed legislation, then additional positions will be needed to support such a function. This would include one (1) additional LCA Program Monitor (Social & Community Services Coordinator Advanced position pay band 70) and one (1) additional LCA Quality Monitor (Social & Community Services Coordinator Advanced position pay band 70). The cost would be \$193.5K in salaries and benefits and \$5k in overhead costs for items such as equipment and email fees. The total budget needed for salaries and benefits and overhead costs is \$198.5K.

This legislation assesses penalties for violations of the notification requirements, potentially resulting in a pool of money. However, the number of penalties and the receiving agency is not identified in the proposed legislation. The amount of revenue generated would be dependent on the number of civil penalties assessed.

The financial cost of violations of this proposed legislation could result in solvency issues for behavioral health providers.

SIGNIFICANT ISSUES

This bill does not specify if it is related to children or adults or anyone who is in a residential behavioral health facility. A child's parent/legal guardian would be responsible for the child's admission into a residential behavioral health facility and would, therefore, know of the child’s presence.

The term “family member” is not defined in proposed legislation. Particularly for residential treatment centers providing services to minors, there may need to be more clarification regarding what constitutes family notification. Patients in the custody of the State and/or in Tribal custody may be restricted by court order from contacting their family members. In such instances, residential treatment facilities would not be able to demonstrate evidence that they attempted to obtain contact information for family.

It is unclear from the proposed legislation who is responsible for monitoring compliance and assessing fines. If it is the regulatory agencies that are responsible, then modifications to the administrative code will be needed to notify providers.

PERFORMANCE IMPLICATIONS

This legislation could further impact staffing at residential treatment facilities for added duties. It could also delay transfer from acute inpatient settings to residential treatment facilities, as some facilities may enact policies that require patients notify their families prior to transferring from acute to residential.

It is unclear how and if data will be gathered in order to track performance and compliance.

ADMINISTRATIVE IMPLICATIONS

If the Licensing and Certification Authority Bureau (LCA), within the Children Youth and Families Department, is one of the regulatory bodies responsible for monitoring and enforcing compliance with this proposed legislation, then additional positions will be needed to support such a function. This would include one (1) additional LCA Program Monitor (Social & Community Services Coordinator Advanced position pay band 70) and one (1) additional LCA Quality Monitor (Social & Community Services Coordinator Advanced position pay band 70). The cost would be \$193.5K in salaries and benefits and \$5k in overhead costs for items such as equipment, email fees, etc. The total budget needed for salaries and benefits and overhead costs is \$198.5K.

NMSA 1978 § 32A-6A-12.A.(5) already requires that children and youth be provided with reasonable access to their legal custodian and a family member through visitation, videoconferencing and telephone access. NMSA 1978 §32A-6A-14.A. already requires legal custodian consent prior to admission to residential treatment centers for children under the age of 14. Failure to enact this legislation will not have a substantive impact on children and youth receiving residential treatment services due to their right to have reasonable access to a legal custodian and family already existing in statute under NMSA 1978 § 32A-6A-12.A.(5).

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.