



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 439
(with AM2360,
Am2518-1, Am2917,
and AM2918)

134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 439's Bill Analysis](#)

Version: In House Civil Justice

Primary Sponsors: Reps. Hillyer and Galonski

Local Impact Statement Procedure Required: No

Ryan Sherrock, Economist, and other LBO staff

Highlights

- There could be additional hospitalization or treatment costs depending on a number of factors including whether the bill (1) identifies individuals, who would have eventually received treatment under current law, earlier or (2) generates new cases. If new cases are generated, state and local public health entities could realize costs.
- The probate divisions of the courts of common pleas should be able to utilize existing staffing levels and appropriated funds to absorb any work and costs created by additional hearings related to involuntary treatment for mental illness.

Detailed Analysis

Definition of “mentally ill person subject to court order” and risk of harm

Existing Ohio law establishes a process under which certain health professionals or law enforcement officers may initiate an individual’s involuntary treatment for mental illness when an emergency exists. The bill changes the definition of a “mentally ill person subject to a court order” by expanding the definition to include a person who represents a substantial risk of harm to self or others as manifested by evidence that indicates:

- that the person’s judgement is impaired by a lack of understanding of having an illness or need for treatment;
- the person refuses or is not adhering to prescribed treatments;
- the person has been diagnosed with certain conditions, including schizophrenia, bipolar disorder, or major depressive disorder; and

- the person is reasonably expected to suffer mental deterioration based on prior history, and, as a result, is expected to then meet the standards under the current law definition.

In addition to being considered a “mentally ill person subject to a court order,” to be eligible for emergency involuntary hospitalization, an individual also must currently represent a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination. The bill removes the requirement that the substantial risk of harm be a risk of “physical” harm.

General hospitals

With regard to the written statement required to be given to a hospital by an individual authorized to transport a mentally ill person subject to a court order under existing law, the bill specifies that the statement is not invalid if the statement identifies a general hospital as the hospital receiving the person. The bill requires a general hospital that receives a written statement to transmit the statement to an Ohio Department of Mental Health and Addiction Services (OhioMHAS)-licensed hospital when the general hospital transfers the person about whom the statement was made to such a hospital. In addition, the bill adds a requirement that when transporting a person under the new category established by the bill, an individual authorized to transport the person must specify certain relevant information.

The bill adds the following exceptions to the existing law requirement that a mentally ill person subject to a court order who is taken into custody and transferred to a general hospital be transferred to an OhioMHAS-licensed hospital within 24 hours: the treating physician determines the individual is not medically stable to be transferred, and the general hospital is unable to identify an OhioMHAS-licensed hospital willing to treat the individual. If specified professionals examine a person transported to a general hospital determine that the person is not a mentally ill person subject to a court order, the general hospital may release or discharge the person if the person is medically stable unless the court has issued a temporary order of detention applicable to the person. The bill specifies that the above provision is not to be construed as requiring a general hospital to have the resources for or provide the staff identified to make such a determination.

Fiscal impact

Treatment costs

The bill could result in additional emergency hospitalization and treatment costs. When contacted, both OhioMHAS and the Ohio Association of County Behavioral Health Authorities (OACBHA) were uncertain of the bill’s impact at this time. However, OACBHA stated that the impact will primarily depend on if the bill (1) generates new cases or (2) identifies individuals, who would have eventually received involuntary treatment under current law, earlier. If cases are identified and treatments are rendered earlier, it is possible that some stabilization and treatment costs might actually be reduced. If there are new cases generated, the costs will depend on the number of such cases, the scope of treatments rendered, and insurance reimbursements or patient contributions received. OhioMHAS regional psychiatric hospitals (RPH) could realize an increase in costs, as could any public hospitals that provide care. Additionally, if a public hospital kept an individual for longer than 24 hours due to an exception established by the bill, the public hospital could realize costs to provide care. These costs would

depend on any insurance reimbursements or patient contributions received.¹ Private insurance, Medicare, and Medicaid could reimburse for medically necessary treatment or hospitalizations. In cases in which insurance was unavailable, patients could be charged. In addition, some county alcohol, drug addiction, and mental health services (ADAMHS) boards may pay some emergency hospitalization costs, if funds are available, for indigent patients in certain circumstances. ADAMHS boards could also realize costs to establish emergency and crisis care plans for residents impacted by the bill or to reimburse for any additional assessments required.

Probate courts

Because of the bill, there may be an increase in the number of probate court hearings involving an individual's involuntary treatment for mental illness when an emergency exists. For the ten-year period covering calendar years 2011 through 2020, probate courts reported an average of 85,980 incoming cases statewide per year, of which 6,129, or 7.1%, involved civil commitments.² The increase in hearings is not expected to be significant; some cases may be heard earlier under the bill than they otherwise would have been under current law. The courts will likely be able to utilize existing staffing levels and appropriated funds to absorb any additional work and related costs.

HB0439H1/zg

¹ There are currently six OhioMHAS regional psychiatric hospitals. The inpatient daily rate in CY 2021 for all payors ranged from about \$537 to \$804. See the "[OhioMHAS Hospital Rates](#)" (PDF), which is available on OhioMHAS's website: mha.ohio.gov/supporting-providers/regional-psychiatric-hospitals.

² Civil commitment data reported by the Supreme Court includes all commitments under R.C. Chapter 5122 of which emergency commitments are a subset.