

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 28 - HB 68

March 4, 2013

**SUMMARY OF BILL:** Requires a court to take into consideration a parent's mental health status in a child custody proceeding and to consider any diagnosis or treatment programs of treating medical care providers regarding a parent's mental health in order to determine what parenting arrangements would be in the best interest of the child. Subjects the medical records, including mental health records, of any parent who has been evaluated, diagnosed, or treated for mental health status to discovery pursuant to the provisions of the bill and the rules of civil procedure. A court is authorized to issue, under specified conditions, a qualified protective order allowing the petitioning parent and the parent's attorney to obtain protected health information from records or depositions with treating healthcare providers. Any health care records of any parent who has been involuntarily committed for mental health treatment are required to be provided only under seal to the court and the opposing parent, on motion and if no proceeding is pending by certified mail. A parent with a diagnosed mental illness is required to disclose under seal the existence of the diagnosis to the court and an adverse party. The diagnosed parent is also required to file an updated status report and supporting medical records, at least annually, under seal to the court. If a parent waives parenting time or agrees only to have supervised visitation, then the parent may request that the court waive these disclosure requirements.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue - \$8,100/FY13-14/DMHSAS  
\$16,300/FY14-15 and Subsequent Years/DMHSAS**

**Increase State Expenditures - \$11,500/FY13-14/DMHSAS  
\$23,100/FY14-15 and Subsequent Years/DMHSAS**

Assumptions:

- Tenn. Code Ann. § 36-6-106(a)(5) currently requires a court to consider the mental health of the parent or caregiver, as applicable. According to the Administrative Office of the Courts, although this bill will authorize access to protected health information that would not otherwise be accessible and would require disclosures not currently required, the bill will have no impact on the caseloads of state trial courts, general sessions courts with domestic relations jurisdiction or juvenile courts.

- Regional Mental Health Institutes (RMHIs) provide in-patient psychiatric services for adults. Most RMHI admissions are on an emergency involuntary basis. There are four RMHIs in Tennessee. According to the Department of Mental Health and Substance Abuse Services (DMHSAS) in FY11-12, RMHIs experienced 10,361 unique admissions. DMHSAS estimates that RMHIs will receive 30 requests per facility in FY13-14 and 60 requests per facility in FY14-15 with an average of 75 pages per record. The increase in the second year for requests is expected due to greater awareness of the law.
- According to DMHSAS, it will take an average of 3 hours of labor at an average of \$28.28 average hourly payroll expenses for persons in medical records at the RMHIs to obtain and copy each record. According to DMHSAS, increased labor expenditures resulting from records reproduction will total \$10,181 in FY13-14 (30 requests x 4 RMHIs x 3 hours x \$28.28) and \$20,362 in FY14-15 and subsequent years (60 requests x 4 RMHIs x 3 hours x \$28.28).
- According to DMHSAS, the cost per page of records reproduction will average \$0.15. According to DMHSAS, the increased production expenditures resulting from records reproduction will total \$1,350 in FY13-14 (30 requests x 4 RMHIs x 75 pages x \$0.15 per copy) and \$2,700 in FY 14-15 and subsequent years (60 requests x 4 RMHIs x 75 pages x \$0.15 per copy).
- The total amount of increased state expenditures resulting from record reproduction costs will be \$11,531 in FY13-14 (\$10,181 labor + \$1,350 production) and \$23,062 (\$20,362 labor + \$2,700 production) in FY14-15 and subsequent years.
- The Schedule of Reasonable Charges for Copies of Public Records published by the Office of the Comptroller of the Treasury authorizes an entity to charge \$0.15 per page for a standard black and white copy and the hourly wage of the employee or employees necessary to produce requested records above the labor threshold. The labor threshold is defined as the labor of the employees reasonably necessary to produce requested materials for the first hour incurred by the records custodian in producing the material.
- According to DMHSAS, revenue from reimbursement for the labor costs of record reproduction will total \$6,787 in FY13-14 [2 hours (3-1) x 30 requests x 4 RMHIs x \$28.28] and \$13,574 in FY14-15 and subsequent years [2 hours (3-1) x 60 requests x 4 RMHIs x \$28.28].
- According to DMHSAS, revenue from reimbursement for the production costs of record reproduction will total \$1,350 in FY13-14 (30 requests x 4 RMHIs x 75 pages x \$0.15 per copy) and \$2,700 in FY14-15 and subsequent years (60 requests x 4 RMHIs x 75 pages x \$0.15 per copy).
- The total amount of increased state revenue resulting from record reproduction will be \$8,137 in FY13-14 (\$6,787 labor + \$1,350 production) and \$16,274 in FY14-15 and subsequent years (\$13,574 labor + \$2,700 production).
- According to the Department of Health, the bill will not impact programs or operations of the Department. The fiscal impact of the bill on the Department will be not significant.

- Medical records subject to this legislation may contain information that is protected health information as defined under federal law. If the legislation requires treating healthcare providers to disclose protected health information in a manner that does not comply with federal law, then treating healthcare providers will not disclose the protected health information.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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