



**Senate Fiscal Agency**  
P. O. Box 30036  
Lansing, Michigan 48909-7536



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

House Bill 4486 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Representative John Walsh  
House Committee: Judiciary  
Senate Committee: Judiciary

### **CONTENT**

The bill would amend Chapter 2A (Substance Abuse Disorder Services) of the Mental Health Code to allow a court to order involuntary treatment for an adult who had a substance use disorder, under particular circumstances. The bill would do the following:

- Establish procedures and criteria for a person's spouse, family member, or guardian, or a health professional to petition a court to initiate proceedings for involuntary treatment.
- Require a petition to include a certified statement of a health professional who had examined the respondent to the petition (the person with the alleged disorder) or a statement that the respondent refused to undergo an examination.
- Require a court to examine a petitioner under oath, and schedule a hearing if it found probable cause to believe the respondent could reasonably benefit from treatment.
- Specify that a respondent could retain counsel or, if indigent, have court-appointed counsel at public expense.
- Allow a respondent to have an independent expert evaluation of his or her physical and mental condition conducted for the court hearing.
- Allow the court to order involuntary treatment if it found by clear and convincing evidence that the respondent had a substance use disorder; he or she presented an imminent danger or threat of danger to self, family, or others, or there was a substantial likelihood of the threat of danger in the near future; and he or she could reasonably benefit from treatment.
- Allow the court to order involuntary treatment for up to 72 hours or until a hearing.
- Require a person's release from involuntary treatment immediately when the court-ordered period expired.
- Specify that a respondent who failed to undergo and complete ordered treatment would be in contempt of court.
- Prohibit a respondent from being held in jail pending transportation to a program or evaluation unless the court previously found him or her in contempt of court for failure to undergo treatment or to appear at an ordered examination.
- Prescribe a misdemeanor penalty for certain violations related to filing a petition.
- Require a community mental health entity designated by the Department of Community Health to give the court a list of programs that were able and willing to take respondents ordered held for treatment.

In addition, the Code provides for a person who is incapacitated in public to be taken into protective custody and transported to a service program or emergency medical service for treatment, and provides for the voluntary admission of an incapacitated person. The definition of "incapacitated" refers to a person who is unconscious or impaired as the result of using alcohol. The bill would add, "or other drugs".

## **FISCAL IMPACT**

The bill would have a negative fiscal impact on both State and local government. By expanding the criteria for involuntary assessment and stabilization, the bill would increase costs to community health service providers. According to data found in the Report on Substance Abuse Prevention, Treatment and Recovery Programs for FY 2011-2012, intensive outpatient programs served 3,236 unduplicated clients with a total cost of \$5,347,738 or an average statewide cost of approximately \$1,653 per client, outpatient programs served 47,771 unduplicated clients with a total cost of \$34,345,307 or approximately \$719 per client, detoxification programs served 11,766 unduplicated clients with a total cost of \$7,602,743 or approximately \$646 per client, and residential service programs served 13,707 unduplicated clients with a total cost of \$35,529,588 or approximately \$2,592 per client. These costs would be partially, although not entirely, offset by the collection of a fee when a petition for involuntary treatment of an individual was filed.

With a potential for added caseload through petitions for involuntary assessment and stabilization, there could be an increase in costs to local courts. There also could be additional costs to local government related to protective custody and involuntary assessment and stabilization from implementing the revised definition of "incapacitated", which the bill would extend to incapacitation from other drugs. Also, additional training could be warranted by local government law enforcement operations to accurately recognize individuals under the influence of other drugs. Since the bill would create a misdemeanor, as well, local government could experience further costs related to the prosecution and punishment of offenders.

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Fiscal Analyst: Ellyn Ackerman  
John Maxwell

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.