

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6700

BILL NUMBER: HB 1117

DATE PREPARED: Feb 1, 1999

BILL AMENDED: Feb 1, 1999

SUBJECT: Developmental disabilities ombudsman.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill establishes a statewide waiver ombudsman program for individuals with waivers under the federal Home and Community Based Services program. The bill requires the Division of Disability, Aging, and Rehabilitative Services to administer the ombudsman program. It authorizes the ombudsman to intervene on behalf of customers of waiver services. It makes certain actions that impede the ombudsman's investigation a Class B misdemeanor. This bill establishes the quality assurance program. The bill allows the ombudsman a patient's mental health record without the patient's consent. (The introduced version of this bill was prepared by the Indiana Commission on Mental Retardation and Developmental Disabilities.)

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) This bill requires the Division of Disability, Aging, and Rehabilitative Services (DDARS) to administer a statewide waiver ombudsman program. It is estimated that two new full time employees would be necessary to staff the ombudsman program. This is based on a staff ratio of 1:1200 waiver slots. There are approximately 2,500 individuals on Medicaid waivers. The cost of adding the two employees is \$90,513 in FY 2000 and \$90,505 in FY 2001. These costs include salary, fringe benefits, and indirect costs. In addition to employee costs, there will also be the following estimated costs: \$1,500 to implement an 800 toll free number, \$5,000 for brochures and posters as outreach for individuals on the waivers, training costs of \$2,000, and \$34,000 in travel costs for home visits to individuals on waivers. The total estimated cost for the DDARS to administer the ombudsman program is approximately \$133,005.

This bill requires the DDARS to establish a quality assurance program. It is assumed that the creation of the quality assurance program will be subject to available appropriations.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and

resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The November 30, 1998, manning table shows the Family and Social Services Administration has 288 full time vacancies. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The Federal Health Care Finance Administration (HCFA) will provide a 50% match for the ombudsman program as this program is directly connected to Medicaid recipients.

Explanation of State Revenues: This bill creates a Class B Misdemeanor for actions that impede the ombudsman's investigation. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Family and Social Services Administration, Division of Disability, Aging, and Rehabilitative Services.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: