

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

301 State House
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FISCAL IMPACT STATEMENT

LS 8080

BILL NUMBER: SB 606

DATE PREPARED: Apr 29, 1999

BILL AMENDED: Apr 28, 1999

SUBJECT: Disability and rehabilitative services; Medicaid Eligibility; Personal needs allowance.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) *Disability and Rehabilitative Services:* This bill removes references to the New Castle State Developmental Center and the Northern Indiana State Developmental Center. The bill provides that the Indiana Housing Finance Authority may allocate federal low income housing credits to a building providing housing for persons with disabilities even if the building is not "primarily" used to provide residential housing for persons with disabilities. It requires the Authority to allocate the federal credits under this provision based on the proportionate amount of a qualified building that is used to provide residential housing for persons with disabilities.

This bill relocates provisions within the Indiana Code governing the Family Support Program and the funding requirements for Centers for Independent Living. The bill revises the duties of the Bureau of Developmental Disabilities Services. It authorizes the Adult Protective Services unit to use the prosecuting attorney to obtain a protective order. It establishes an Ombudsman for persons with a developmental disability who receive waivers services. The bill requires the Board of Interpreter Standards to adopt certain rules. It removes reference to state owned children's facilities under the authority of the Director of the Division of Family and Children.

This bill allows the Statewide Waiver Ombudsman access to a patient's mental health records without the patient's consent. It makes numerous changes to transition services offered to disabled students who leave the Special Education Program.

The bill provides that a participant in the assistance to residents of county homes program or the room, board, and assistance program may retain one-half of the person's employment income, minus certain deductions, regardless of whether the income is a result of a personal habilitation plan. It repeals existing provisions governing community residential programs, case management services, respite care, diagnostic assessment, rehabilitation services, the Emergency Support Fund, and the Family Subsidy Program. The bill adds duties to the Indiana Commission on Mental Retardation and Developmental Disabilities. It extends the term of the

Commission until 2005. It makes conforming amendments.

Medicaid Eligibility: This bill provides that an irrevocable trust, an irrevocable prepaid funeral agreement, or a life insurance policy that provides money for the burial of an individual may not be considered as a resource in determining the individual's eligibility for Medicaid if the value of the irrevocable trust, irrevocable prepaid funeral arrangement, or life insurance policy does not exceed \$10,000. (Current law exempts these instruments from consideration as a resource in determining an individual's eligibility for Medicaid if the value of the instrument does not exceed \$1,400.)

Personal Needs Allowance: The bill also provides for a \$50 personal needs allowance.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) *Disability and Rehabilitative Services:* This bill changes the definition being used by the Indiana Housing Finance Authority (IHFA) in allocating low income housing credits to residential housing for persons with disabilities. Currently Indiana receives approximately \$7 million annually in federal low income housing credits. The IHFA allocates 10% of these credits to residential housing for persons with disabilities. The current definition is restricting the allocation of these credits to residential housing for persons with disabilities. The IHFA must re-allocate some of the credits set aside for this category to other set asides at the end of a fiscal year. The definition change will allow the full 10% of the low income housing credits for residential housing for persons with disabilities to be used on an annual basis and may also increase the number of residences for individuals with a disability.

The bill adds two additional duties to the Indiana Commission on Mental Retardation and Developmental Disabilities (MRDD) and extends the term of the Commission from 2001 to 2005. The MRDD Commission consists of 4 legislators and 8 lay members. Current Legislative Council Resolution allows for a \$9,000 for legislative committees of less than 16 members. The Legislative Services Agency provides staff to the Commission.

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.

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 February 26, 1999 manning table shows the Family and Social Services Administration has 282 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.

Medicaid Eligibility: According to the Office of Medicaid Policy and Planning (OMPP), there would be no fiscal impact to the provision regarding Medicaid eligibility due to current practice.

Personal Needs Allowance: The total estimated cost to the State of increasing the personal needs allowance from \$35 per month to \$50 per month for institutionalized individuals is about \$2.30 million for FY2000 and \$2.35 million for FY2001.

Residents of nursing facilities, intermediate care facilities for the mentally retarded (ICFs/MR), and individuals receiving assistance through the Assistance to Residents of County Homes (ARCH) and Room and Board Assistance (RBA) programs are allowed a monthly personal needs allowance of \$35 for FY99. In the case of an RBA or ARCH recipient with no income, the State pays the recipient the personal needs allowance. This amount is not considered income to the individual in the determination of eligibility and is for the exclusive use of the recipient for personal needs.

Based on current numbers of Medicaid recipients in state operated facilities, group homes, nursing facilities, and recipients of residential assistance in the ARCH and RBA programs (State funded programs with no Medicaid dollars), the total additional cost from increasing the personal needs allowance by \$15 per month (to a total of \$50) would be about \$5.42 million for FY2000. This would represent about \$3.12 million in federal share and about \$2.3 million in state dollars. (This is based on estimated FY2000 Medicaid Program cost shares of 61.01% federal and 38.99% state. As part of the impact to the state, the cost of changing the personal needs allowance for the 1,654 ARCH/RBA recipients is about \$298,000 and would be funded solely from state funds.)

This estimate would be overstated to the extent that some individuals in the Medicaid Program would have zero income. Increasing the personal needs allowance for an individual with no income would not affect state costs.

Note: Although the personal needs allowance for Medicaid eligible individuals residing in community residential facilities for the developmentally disabled (CRFs/DD) is not specifically addressed in the bill, the fiscal impact, above, includes a \$50 personal needs allowance for these individuals, as well.

Explanation of State Revenues: (Revised) *Disability and Rehabilitative Services:* 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.

Personal Needs Allowance: See Explanation of State Expenditures, above, regarding federal revenues in the cost-shared Medicaid program.

Explanation of Local Expenditures: (Revised) *Disability and Rehabilitative Services:* 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: (Revised) *Disability and Rehabilitative Services:* 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, Indiana Housing Finance Authority, Legislative Services Agency.

Local Agencies Affected:

Information Sources: Todd Sears, Indiana Housing Finance Authority, 232-7777. Cindy Stamper, Family and Social Services Administration, 232-4966. Bob Hornyak, Aging/In Homes Services, 232-7020. Lauren Polite, FSSA, 232-1149.