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FISCAL IMPACT STATEMENT

LS 6402
BILL NUMBER: SB 157

NOTE PREPARED: Mar 14, 2008
BILL AMENDED: Mar 13, 2008

SUBJECT: Opioid Treatment Programs.

FIRST AUTHOR: Sen. Miller
FIRST SPONSOR: Rep. C. Brown

BILL STATUS: Enrolled

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill does the following:

Opioid Treatment Programs: This bill changes the term "methadone treatment" to "opioid treatment" for purposes of the law concerning certification of opiate addiction treatment facilities. It requires the Division of Mental Health and Addiction to adopt rules on: (1) standards for operation of an opioid treatment program; (2) a requirement that the opioid treatment facilities submit a current diversion control plan; and (3) fees to be paid by an opioid treatment facility.

The bill also requires an opioid treatment program to: (1) periodically and randomly test a patient for the use of specified drugs; and (2) take certain actions if the drug test is positive for an illegal drug other than the drug being used for the patient's treatment. The bill requires the division to create a central registry and prepare a biennial report. It specifies violations and penalties. The bill repeals the expiration of current law requiring a methadone diversion control and oversight program.

(The introduced version of this bill was prepared by the Health Finance Commission.)

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Department of Mental Health and Addiction (DMHA)*:The bill requires DMHA to establish a central registry to maintain information concerning each patient served by an opioid treatment program. The Indiana Central Opioid Patient Electronic (ICOPE) registry is currently online and in the implementation stage and assigns a unique identifier to each patient treated in the state by opioid treatment programs (OTPs). The information contained in this registry will be provided by the OTPs at least

every month. The annual cost for the registry in the FY 2008 budget included $100,000 for the ICOPE program. This amount is the annual cost for operation and maintenance of the central registry required in the legislation.

The bill also requires DMHA to prepare and submit a biennial report to the Legislative Council and the Governor concerning the treatment offered by opioid treatment programs. This report is currently produced by DMHA and contains all information required in the legislation. The requirement that the report be prepared and submitted would have no additional fiscal impact on DMHA.

Background and Additional Details-

Opioid Treatment Programs: Indiana currently provides public funds to not-for-profit OTPs only. Indiana directly funds two not-for-profit OTPs from federal Substance Abuse Prevention and Treatment (SAPT) block grant funds to subsidize certain patients, based on income limitations. This reduces out-of-pocket expenses to these patients and allows clinics to charge lower-income patients on a sliding scale. Currently, there are two not-for-profit OTPs in the state, with a third scheduled for opening in Porter County.

Explanation of State Revenues: *DMHA*: Proposed increases of the out-of-state patient fees along with the creation of in-state fees are required by the bill to be sufficient to cover the cost of implementation. Expenses experienced by DMHA in FY 2006 for their oversight of OTPs totaled $313,000. The legislation requires that user fees for OTPs cover the cost of providing oversight and regulation of the clinics. These fees are not to exceed $75 per user. Currently, only out-of-state users are charged a $20 user fee. The estimated population of OTP users in 2007 is 11,288, of which 5,539 are expected to be out-of-state patients. Revenue to DMHA from the $20 user fee for the out-of-state population until May 14, 2009, is expected to be $111,000. The OTP user population in 2008 is estimated to be 12,050. Assuming the maximum user fee, revenue to DMHA on May 15, 2009, is expected to be $904,000, an increase of $793,000 from the prior year. Actual revenue will depend on the costs incurred by DMHA for regulation of OTPs as fees charged cannot exceed costs.

The legislation adds that individuals that receive treatment from OTPs must sign a statement that they will be driven away from the facility by a responsible person after receiving opioid treatment medications. The impact on user fees from any change in OTP use resulting from this provision is unknown.

Additionally, the legislation adds that OTPs must periodically randomly test patients for select drugs during an individual's treatment program. If a patient tests positive for substances defined in the legislation, the OTP is required to terminate the patient's treatment at the OTP facility. User fees paid to DMHA from OTPs are collected for all patients that are entered into OTP patient records. If these patients are removed from the program, but have been included in the OTP records, OTPs are still responsible for the annual user fees for these individuals.

OTPs are required to pay DMHA user fees for all patients treated during the last calendar year on May 15th of the subsequent year. This means that fees DMHA receives on May 15, 2008, will be for calendar year 2007. The legislation has an effective date of July 1, 2008, which is after the date that fees are paid to the Division. DMHA will experience their first increase in revenue from user fees in the legislation in 2009.

If an OTP either (1) violates any of the laws dealing with methadone diversion, control, and oversight, (2) permits, aids, or abets the commission of an illegal act in an OTP facility, or (3) conducts a practice found

detrimental to the welfare of an OTP patient, the Director of DMHA is authorized to take any of the following actions: *(a)* issue a letter of correction, *(b)* reinspect an OTP, *(c)* deny renewal or revoke either approval to operate as an OTP or the certification of the OTP, and *(d)* impose a civil penalty not to exceed $10,000. Any revenue from civil fees is likely to be small.

Court Fee Revenue: If additional civil or court actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee or a court costs fee of $100 would be assessed when a case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee ($2), automated record keeping fee ($7), judicial salaries fee ($17), public defense administration fee ($3), court administration fee ($3), and the judicial insurance adjustment fee ($1) are deposited into the state General Fund.

Background Information: Currently, the state collects revenue from for-profit opioid treatment facilities in the state. There are 14 opioid clinics in the state, of which 3 are considered not-for-profit clinics, one clinic operates under federal guidelines (and therefore is not under DMHA oversight), and 11 of the 14 are considered for-profit opioid clinics. Clinics can charge sliding scale fees for lower-income individuals, and there is financial assistance available for indigent individuals that is provided from the federal SAPT block grant. Indiana Medicaid can also provide limited coverage for OTP services. The revenue collected from these treatment programs currently comes in the form of out-of-state patient fees. Currently, there are no fees charged to Indiana residents that utilize the treatment programs, and there are no program certification fees collected. All revenue collected from OTPs currently comes from the out-of-state user fees assessed at $20 per person, which generated a total of $102,100 in FY 2006 for 5,105 out-of-state patients. Currently, in-state users are not assessed a fee. All revenue collected from OTPs is deposited into the Opioid Treatment Diversion and Oversight Program fund which is administered by DMHA.

DMHA reports that the out-of-state fees received by the state are not paid by the patients, but are actually financed by the OTP. Increasing the fees for out-of-state residents might shift the cost to the patients in some form, or the fees may continue to be financed by OTPs in the state. The increase of the out-of-state user fees may increase the amount charged to patients for treatment, potentially decreasing the demand for OTP service. This potential decrease in demand for treatment can affect the revenue collected by DMHA for out-of-state patient fees. The actual decrease in out-of-state demand for treatment associated with increasing costs is indeterminable.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil or court actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the $100 civil or court costs 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. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case. However, additional fee revenue is anticipated to be small.

State Agencies Affected: DMHA, FSSA.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: Cathy Boggs, DMHA; Jessaca Turner-Stults, FSSA; Terry Whitson, Indiana State Department of Health; Scott Zarazee, Indiana State Department of Health; *Report to the Health Finance Commission and General Assembly* prepared by DMHA; *Indiana Opioid Addiction Treatment Program Report, 2005*, prepared by FSSA and DMHA.

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