

**STATE  
FISCAL IMPACT**

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| <b>Drafting Number:</b> LLS 12-0601                         | <b>Date:</b> February 7, 2012                        |
| <b>Prime Sponsor(s):</b> Sen. Williams S.<br>Rep. DelGrosso | <b>Bill Status:</b> Senate Judiciary                 |
|   | <b>Fiscal Analyst:</b> Bill Zepernick (303-866-4777) |

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**TITLE:** CONCERNING AVOIDING POTENTIAL CONFLICTS OF INTEREST IN THE PROVISION OF SERVICES TO A PERSON ON PROBATION.

| <b>Fiscal Impact Summary</b>   | <b>FY 2012-2013</b> | <b>FY 2013-2014</b> |
|--|---------------------|---------------------|
| <b>State Revenue</b>   |                     |                     |
| <b>State Expenditures</b>  |                     |                     |
| General Fund   | \$8,561,562         | \$8,561,562         |
| <b>FTE Position Change</b>   |                     |                     |
| <b>Effective Date:</b> August 8, 2012, if the General Assembly adjourns on May 9, 2012, as scheduled, and no referendum petition is filed. |                     |                     |
| <b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.   |                     |                     |
| <b>Local Government Impact:</b> None.  |                     |                     |

**Summary of Legislation**

The bill prohibits an entity that provides probation or case management services to a defendant from also providing the same defendant with offender treatment, chemical dependency education and treatment, domestic violence or mental health services, or from holding a financial interest in an entity that provides the same defendant with such treatment and education services.

**State Expenditures**

Prohibiting community corrections providers from offering both case management and offender treatment services to the same defendant will require providers to acquire these various treatment services for defendants from outside providers on a fee-for-service basis rather than with in-house staff. This change will increase General Fund costs in the Department of Public Safety (DPS) by *\$8.6 million per year beginning in FY 2012-13*.

These costs result from higher costs for community corrections providers, who, in turn, pass these costs on to the DPS in the form of higher contracting costs. Community corrections providers offer integrated case management and treatment services for persons on probation, parole, or who are sentenced directly to community corrections. Table 1 shows a summary of the costs for the various community corrections treatment services using in-house staff under current law and using fee-for-service provides as required by under the bill.

**Table 1. Annual Costs Under SB 12-122**

| Cost Components                            | Clients    | In-House Costs                  |                    | Fee for Service Costs           |                     | Net Change in Costs |
|--|------------|---------------------------------|--------------------|---------------------------------|---------------------|---------------------|
|  |            | Per Client                      | Total Costs        | Per Client                      | Total               |                     |
| Intensive Residential Treatment            | 420        | \$1,600<br>(\$17.78 x 90 days)  | \$672,084          | \$13,000<br>(\$25 x 520 hours)  | \$5,460,000         | \$4,787,916         |
| Therapeutic Community Treatment            | 186        | \$5,234<br>(\$14.34 x 365 days) | 973,543            | \$6,500<br>(\$25 x 260 hours)   | 1,209,000           | 235,457             |
| Residential Dual Diagnosis Treatment       | 250        | \$5,547<br>(\$33.02 x 168 days) | 1,386,840          | \$19,200<br>(\$100 x 192 hours) | 4,800,000           | 3,413,160           |
| John Eachon Re-Entry Program               | 15         | \$9,610<br>(\$52.80 x 180 days) | 144,144            | \$15,600<br>(\$100 x 156 hours) | 234,000             | 89,856              |
| Outpatient Therapeutic Community Treatment | 104        | \$4,862<br>(\$13.32x365 days)   | 505,627            | \$5,200<br>(\$25 x 208 hours)   | 540,800             | 35,173              |
| <b>TOTAL</b>                               | <b>975</b> |                                 | <b>\$3,682,238</b> |                                 | <b>\$12,243,800</b> | <b>\$8,561,562</b>  |

The calculations above are based on the following assumptions. First, it is assumed that all persons receiving treatment in community corrections, not just persons on probation, would receive services on a fee for service basis, including persons on parole. This is based on the assumption that the statutory prohibition on combining probationary services and case management with offender treatment would make community corrections providers unable to be licensed as substance abuse and mental health treatment facilities, and that all clients would need to be served by external treatment providers. Second, this analysis assumes that all treatment services would be provided on a fee-for-service basis by independent external providers. The fee for service costs are assumed to be \$25 per hour for outpatient substance abuse services and \$100 per hour for combined outpatient substance abuse and mental health services.

**Alternate costs.** It is possible that community corrections providers could obtain services at a lower rate by subcontracting with an outside provider at a per diem rate rather than the hourly fee-for-service rate cited above. However, even such a subcontracting scenario would reduce efficiencies and increase costs because staff in community corrections providers often provide both case management and treatment services. For illustrative purposes, if community correction facilities were able to replace their in-house treatment staff with an outside contractor at a hypothetical 25 percent cost increase, the bill would increase General Fund costs in the DPS for community correction treatment services by \$920,559. However, at this time it is not clear if there are currently providers in the market (other than the current community corrections providers) who would be willing to provide treatment services at a daily per diem rate under such an agreement. As the bill moves forward, additional information will be sought to evaluate if other options besides the fee-for-service model exist.

**State Appropriations**

The bill requires a General Fund appropriation to the Department of Public Safety of \$8,561,562 in FY 2012-13.

**Departments Contacted**

Corrections  
Law

Human Services  
Public Safety

Judicial  
Counties