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COUNTY HUMAN SERVICES BOARDS

House Bill 5848 as enrolled
Second Analysis (10-15-90)

Sponsor: Rep. Donald H. Gilmer
House Committee: Mental Health
Senate Committee: Education and Mental Health

THE APPARENT PROBLEM:

Several counties in Michigan have attempted to coordinate their mental health programs with their public health programs and various other human services by establishing county human services or human resources departments. (Kalamazoo's Human Services Department, for example, provides mental health, public health, substance abuse, job training, and transportation services, and serves as the community action agency). The reorganized departments have their own advisory boards. In most cases, the counties have maintained separate mental health boards, but in some instances the human services advisory boards have replaced the community mental health boards. The attorney general has ruled that this latter action causes the affected county's community mental health program to be out of compliance with the provisions of the Mental Health Code. According to the attorney general, the Mental Health Code is clear in its mandate that a county that elects to establish a community mental health program must have a community mental health board, and that that board may only perform mental health-related duties. The attorney general also ruled that counties may not allocate to another county board the authority conferred to the community mental health board. Unless legislation is enacted that would "legalize" the activities of these counties, they will lose their community mental health funding.

The Mental Health Advisory Council on the Deaf and Hearing Impaired was established informally in 1981, and has been funded each fiscal year by appropriations from the Department of Mental Health budget. In an attempt to establish the council on a more permanent basis, Public Act 354 of 1984 created the State Mental Health Advisory Council on Deafness, and enumerated its powers and duties. The act, however, also provided for a March 31, 1989, expiration date. A 1987 attorney general opinion invalidated the act's expiration date. However, subsequent court decisions have cast doubt on the attorney general's ruling. To ensure that the council has clear statutory authority to operate, legislation to delete the act's expiration date has been proposed.

THE CONTENT OF THE BILL:

The bill would amend the Mental Health Code to permit the governing board of a county that had established a county human services or human resources department and governing board prior to January 1, 1990, to assume — on a demonstration basis — the powers and duties granted county community mental health boards under the code. The governing board would be required to establish a community mental health advisory board that would have the same composition as a county community mental health board. Under the bill, the Department of Mental Health would be required to evaluate the governing board of a county human services or human resources department that had assumed the powers and duties of a community mental health board. The department would assess:

- The board's ability to perform its duties relating to the provision of mental health services.
- The board's accessibility to consumers, providers, and advocates of mental health services when discussing matters pertaining to public mental health services.
- Whether a community mental health advisory board was an effective mechanism for increasing the ability of the governing board to deal knowledgeably with mental health issues.

The above provisions would be repealed effective January 1, 1993. (MCL 330.1221) Under the code, the authorization for the State Mental Health Advisory Council on Deafness expired March 31, 1989. The bill would delete this expiration date. (MCL 330.1939)

FISCAL IMPLICATIONS:

According to the Department of Mental Health, the bill has no fiscal implications for the state. The State Mental Health Advisory Council on Deafness is currently funded under the Department of Mental Health appropriations bill. (10-12-90)

ARGUMENTS:

For:

The bill would enable certain counties to receive the necessary funding to continue their integrated human resources programs for two and one-half additional years. During that period, the department would evaluate each county's performance to make sure that it is providing the required mental health services, and that it is accessible to mental health consumers, providers, and advocates.

For:

The bill would provide statutory authority for an advisory council which has proved its value to the Department of Mental Health. The council has been an asset to the department in identifying needs and recommending policies and programs to meet those needs, and has successfully focused attention in the mental health community on the unique needs of persons who are deaf or hard of hearing.

Against:

The bill is an attempt to change the Mental Health Code to accommodate the actions of those who have violated it. The attorney general has ruled that counties that disband their county community mental health boards, or who permit the boards' powers to be preempted, are out of compliance with the provisions of the Mental Health Code. By permitting county systems to continue functioning with advisory boards that preempt the powers of the community mental health boards, the bill could set a precedent that would induce other counties to circumvent the intent of the code.

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Response: The provisions of the bill would only apply to those counties that had established human services or human resources departments and governing boards before January 1, 1990. Counties that adopted such departments, or governing boards, after January 1, 1990, would not be in compliance with the code.

Against:

A community mental health board is responsible for advocating on behalf of those in need of mental health services, for surveying the community's mental health needs, and for submitting a budget to the Department of Mental Health. If that board also has these responsibilities for the county's other human services programs, then the result has to be a dilution of the board's role in the mental health area.