

SFA

BILL ANALYSIS

RECEIVED

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

NOV 19 1987

Mich. State Law Library

House Bill 4712 (as reported without amendment)**Sponsor: Representative Debbie Farhat****House Committee: Mental Health****Senate Committee: Education and Mental Health****Date Completed: 10-27-87****RATIONALE**

The Mental Health Code specifies that a protection and advocacy agency must be established for persons with developmental disabilities, as required by the Federal Developmental Disabilities and Bill of Rights Act of 1975. The Federal Act requires that a protection and advocacy system be instituted in every state and that the governor of each state designate an agency to implement the system. The Michigan Protection and Advocacy Service is a private, nonprofit organization that provides protection and advocacy services to developmentally disabled persons in this State pursuant to the Federal Act. In 1986, Congress enacted the Federal Protection and Advocacy for Mentally Ill Individuals Act, which is similar to the Developmental Disabilities Bill of Rights Act in that it requires that similar protection and advocacy services be provided to the mentally ill, sets guidelines for access to records, and is supported with Federal funds. This Act requires that state governments designate agencies to serve the mentally ill, and that Federal matching funds be given only to the state agency designated by the governor to implement such an advocacy program. States have until April 1988 to meet these Federal requirements. Michigan, however, has provided these services to the mentally ill for the past three years through boilerplate language in the appropriations bill for the Department of Mental Health. Despite the fact that the Michigan Protection and Advocacy Service already has been providing protection and advocacy for the mentally ill, as well as developmentally disabled, it is believed by some that this will not satisfy Federal requirements that a protection and advocacy system for mentally ill be established in every state. It is argued that Michigan's program is not permanent since it is not included in the Mental Health Code and has to be renewed yearly through the appropriations bill. In order not to jeopardize Federal matching funds and to ensure the continuance of a protection and advocacy program for the mentally ill, some people believe the Mental Health Code should be amended to include specific provisions for protection and advocacy services for the mentally ill, as well as the services already provided for developmentally disabled persons.

CONTENT

The bill would amend the Mental Health Code to require the Governor to designate an agency to implement a program for the protection and advocacy of the rights of developmentally disabled and mentally ill persons, pursuant to the Federal Developmentally Disabled Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act, respectively.

The agency would have the authority to pursue legal, administrative, and other appropriate remedies to protect

the rights of the developmentally disabled and mentally ill persons and to investigate allegations of abuse and neglect. The agency would be independent of any State agency that provides treatment or services, other than advocacy services, to developmentally disabled or mentally ill persons.

The Governor would be required to designate an "appropriate" State official to serve as liaison between the agency and the State departments and agencies that provide services to developmentally disabled persons and mentally ill persons.

The bill would repeal a section of the Mental Health Code that requires the Governor to implement a program for the protection and advocacy of the rights of developmentally disabled persons.

MCL 330.1748 et al.

FISCAL IMPACT

No fiscal impact is anticipated as a result of the proposed amendment because the Department of Mental Health currently provides protection and advocacy services to the State's mentally ill population. The Department contracts with an independent agency, Michigan Protection and Advocacy Services, Inc., to provide the services throughout the State agency system. The service contract amount has been a line item in the Department's appropriation bill since FY 1984-85.

In FY 1984-85, \$104,000 was appropriated for protection and advocacy services for mentally ill clients. The amount appropriated for protection and advocacy services for mentally ill clients in FY 1987-88 is \$365,200. In the appropriations for FY 1984-85 through FY 1987-88, the contract line amount has contained an economic increase for services. Another increase is not anticipated for FY 1987-88.

ARGUMENTS**Supporting Argument**

Federal law authorizes the designation of an agency for the provision of protection and advocacy services for mentally ill, as well as developmentally disabled individuals. The bill would address all the elements of the Federal statutes, but would not expand the authority beyond Federal statutory mandates. Passage of the bill would assure that the State continued to have a viable protection and advocacy system that was eligible for Federal funding.

H.B. 4712 (10-27-87)

Supporting Argument

According to the Department of Social Services, the bill would affect the approximately 13,000 persons who enter State-funded facilities for the mentally ill and the 42,000 who enter privately-funded facilities. Protection and advocacy services would be extended to a population that currently is not covered under the Mental Health Code.

Legislative Analyst: L. Arasim

Fiscal Analyst: C. Cole

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.