

FISCAL NOTE
Requested by Legislative Council
12/21/2018

Bill/Resolution No.: HB 1090

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1090 amends sections of NDCC to allow defendants to be examined or treated at the Life Skills and Transition Center, the State Hospital or public institution if they are below capacity.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

No fiscal impact is expected.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Donna Aukland

Agency: Human Services

Telephone: 328-4924

Date Prepared: 01/03/2019

2019 HOUSE HUMAN SERVICES

HB 1090

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 1090
1/8/2019
30502

- Subcommittee
 Conference Committee

Committee Clerk: Elaine Stromme

Explanation or reason for introduction of bill/resolution: Relating to examination, involuntary treatment, and commitment at the state hospital or life skills and transition center.

Minutes:

Testimony 1

Vice Chairman Rohr: Opened the hearing on HB # 1090

Rosalie Etherington, Superintendent of the North Dakota State Hospital (NDSH) of the Department of Human Services. (DHS) refer to: (Testimony #1)

Representative Dobervich: How frequently is it an issue that the hospital is full to capacity? When they can't take anyone.

Rosalie Etherington; on average it takes 5 to 7 days to get into a bed for those who are already in a hospital. Sometimes there are weeks even a month delay.

Representative Dobervich: Are there options that exist when hospitals are full to capacity?

Rosalie Etherington: Other hospitals in North Dakota are Bismarck has 2, Minot has 1,, Grand Forks has 2, Fargo has 2, and there are 95 crisis beds across the State.

Representative Anderson: What is the time limit that they can stay in the hospital?

Rosalie Etherington: It depends on how they respond to treatment, days to over several yrs.

Representative Schneider: Is there a Number that represents capacity?

Rosalie Etherington: Adults 54 to 56. Children 16 beds

Representative Schneider: Where do the limits come from?

Rosalie Etherington: It is not in code, it is by design.

Representative Kiefert: If you would expand what would it take to cover the demand.

Rosalie Etherington: We would downsize the hospital; crises community centers will expand .

Representative Skroch: In your testimony you said you had the right to refuse court ordered individuals to the hospital. Where would they go then?

Rosalie Etherington: To a regular hospital. At the moment we must accept regardless of capacity.

Representative Skroch: So court ordered and under Medicare, how do you deal with that under full capacity?

Rosalie Etherington; I would find a private hospital, and would pay the hospital if they don't take Medicare or Medicaid. If they still refuse, then we would go over capacity, we would not leave somebody without care.

Representative Skroch: Will this bill change that?

Rosalie Etherington: This bill will allow us to say no at capacity, at the moment the law requires us to take patients regardless of capacity.

Representative Westlind: How many patients have you had that you are over capacity?

Rosalie Etherington; Over a 10 yr. period we have not been over capacity. But during the last 18 Months we have had 3 individuals that put us over capacity. But never for very long.

Representative Skroch: List the psychiatric hospitals that do not accept Medicaid and Medicare.

Rosalie Etherington; I misspoke, it is not a matter that they refuse to accept, however there are facilities that are free standing Institutes of Mental Disease (IMD) if they do not accept Medicaid we have carved out general fund dollars for those that are on Medicaid.

Representative Tveit: Under the present law what is the protocol for a patient coming in when you are over capacity? Are they waiting for a several days?

Rosalie Etherington: The average wait time is 5 to 7 days.

Oppose:

Gregory Runge, Lawyer, public defender, Representing the mentally ill for almost 30 years. This bill would allow State Hospitals to decline patients over the court, that can't be done or you are going to end up with a crisis with the State and the State Hospital. The courts are concerned If the private hospitals refuse to take patients, there is no other place for them to go except the State Hospital. Where are they going to go?

They have to go to state hospitals. In 2017 we had over 250 clients in my counties.

They can't put them out on the street, you can't put them in jail. They cannot do this to the chemically dependent or mentally ill.

House Human Services Committee
HB1090
1/8/19
Page 3

The Hearing is closed on HB1090

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB1090
1/30/2019
31868

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

Relating to examination, involuntary treatment, and commitment at the state hospital or life skills and transition center.

Minutes:

Chairman Weisz: Opened the hearing on HB 1090.

Rep. Porter: I move a Do Not Pass on HB 1090.

Rep. Kiefert: Seconded.

Chairman Weisz: This is a controversial one. Any discussion?

Rep. Porter: I am looking at it from the standpoint that it is the last stop. Inside of all the health care system there needs to be a safety net and this has always been the safety net. I don't know how you would now allow them to not be that safety net without some other plan in place. I cannot support this.

Rep. Kiefert: I really found troubling when in testimony they are looking at not only wanting to reject people but they are looking at cutting back 25 beds too.

Rep. Skroch: We have experienced this first hand, when there is no place else to go they go to jail and they wait there.

Chairman Weisz: Any further discussion? Seeing none. The clerk will call the roll for a Do Not Pass on HB 1090.

Roll call vote: Yes 12 No 1 Absent 1. Motion carried for a Do Not pass on HB 1090.

Rep. M. Ruby: Will carry the bill. Hearing closed.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HB 1090**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Porter Seconded By Rep. Kiefert

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr – Vice Chairman	X		Mary Schneider		X
Dick Anderson	A				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. M. Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1090: Human Services Committee (Rep. Weisz, Chairman) recommends **DO NOT PASS** (12 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). HB 1090 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1090

HB 1090 H-1

1-8-19

Testimony
House Bill 1090 - Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

January 8, 2019

Chairman Weisz, and members of the House Human Services Committee, I am Rosalie Etherington, Superintendent of the North Dakota State Hospital (NDSH) of the Department of Human Services (DHS). I appear today to testify in support of House Bill 1090.

Current law mandates NDSH and the Life Skills and Transition Center (LSTC) to admit all court ordered individuals, regardless of the facility's capacity. In order to retain safe and effective care we ask for authority to decline admission when at capacity.

NDSH provides acute, subacute, and specialized rehabilitation hospital services for individuals with severe mental illnesses or substance use disorders as well as residential treatment services for inmates and probationers in the correctional system and for dangerous sex offenders. Our ability to provide a safe and therapeutic environment depends on our ability to maintain an appropriate patient census.

House Bill 1090 attempts to address part of that problem by giving NDSH the ability to decline an admission made pursuant to certain court orders. These come through the involuntary treatment procedures under Chapter 25-03.1 and court orders for restoration of an individual under Chapter 12.1-04-06.

LSTC provides intermediate residential and community services for adults and youth with intellectual disabilities. Residents are generally admitted only through guardian consent. However, legally an order for restoration to LSTC is possible, which is why it is included in this bill.

#1 HB1090 1-8-19

It is not our desire to turn people away in need. Rather, what we seek is the ability to provide the best care to those in need in the appropriate setting without compromising the care of those currently in our facilities. Moreover, possessing the ability to decline admissions when we are at capacity furthers the development and expansion of crisis and community services. In fact, hospital and residential bed reductions, such as those included in the executive budget, depend upon the expansion of these priority services and the statutory authority to decline admissions when full. House Bill 1090 partially addresses that problem.

This concludes my testimony and I am happy to answer any questions. Thank you