

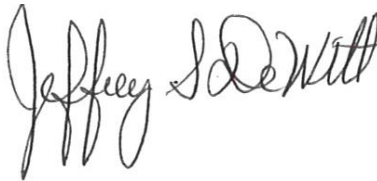
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: December 11, 2017

SUBJECT: Fiscal Impact Statement – Citizens with Intellectual and Developmental Disabilities Civil Rights Reform Amendment Act of 2017

REFERENCE: Bill 22-154, Draft Committee Print sent to the Office of Revenue Analysis on December 7, 2017

Conclusion

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill.

Background

Currently D.C. Code¹ requires people with moderate or severe intellectual disabilities who live at an Intermediate Care Facility or Residential Rehabilitation Facility to be civilly committed in order to receive services from the Department of Disability Service (DDS) or the District's Medicaid Program. Civil commitment is the involuntary placement of a person in a facility by court order. Once a person is civilly committed, a judge at the D.C. Superior Court must review and approve of their life decisions through an annual review.

The bill ends² new civil commitments for people with intellectual disabilities, and allows people who are already civilly committed to decide whether or not they want to remain committed. Ending civil commitments will not affect the services DDS and the Medicaid Program provide people with intellectual disabilities, nor will it affect the number of people in facilities; it will only end court oversight and approval of people's life decisions.

¹ D.C. Official Code § 7-1301.01 et seq.

² By amending the Citizens with Intellectual Disabilities Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 et seq.)

The Honorable Phil Mendelson

FIS: "Citizens with Intellectual and Developmental Disabilities Civil Rights Reform Amendment Act of 2017,"
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For people deciding whether to remain civilly committed, the bill allows the person to rely on others, such as a guardian or family member, to help them make the decision or make the decision for them, if necessary.

This bill does not impact civil commitment for people who have been found incompetent in a criminal case.

The bill also creates³ a formal complaint system in DDS. The system must include a pilot program to provide peer supports for people with intellectual disabilities who wish to file a complaint. To ensure an unbiased review of these complaints, DDS must contract with external reviewers. People who are dissatisfied with DDS's decision regarding their complaint can file an appeal with the Office of Administrative Hearings (OAH). DDS already has an internal problem resolution system, which will likely be replaced by the formal complaint system established by the bill.

The bill also allows an adult with a disability to enter into a supported decision-making agreement. These agreements allow an unpaid supporter to help a person gather and understand information relevant to a decision and evaluate the available options.

Financial Plan Impact

Funds are sufficient in the fiscal year 2018 through fiscal year 2021 budget and financial plan to implement the bill.

Ending civil commitments will not have a fiscal impact since it will not change the services DDS provides or the number of people DDS serves.

Implementing a new formal complaint system will cost DDS around \$17,500 a year, which the agency can fund using money in its budget. The cost comes partly from the peer support system, which will cost \$7,500 a year, assuming 50 people have peer support for 10 hours each, and peers are paid \$15 per hour for their services. The remaining \$10,000 of cost comes from paying external reviewers at a rate of \$135 per hour. DDS estimated these costs based on the past two years' experience of the Department of Behavioral Health, which has a similar complaint system.

OAH will also incur a cost for any appeals it hears from the formal complaint system. If OAH were to hear 10 appeals a year – likely the maximum number of appeals according to DDS – OAH would need \$8,300 to pay for the service of its Administrative Law Judges. Currently, OAH can cover these costs with a Medicaid grant the agency receives to conduct hearings for Medicaid beneficiaries. If OAH were to lose the grant, or if it needed to hear an appeal from someone not covered by Medicaid, DDS could cover the cost of the appeals.

³ By amending the Department on Disability Services Establishment Act of 2006, effective March 14, 2007 (D.C. Law 16-264; D.C. Official Code § 7-761.01 et seq.)