

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: April 9, 2021
To: Joint Standing Committee on Health & Human Services
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LD 512 An Act To Provide Intensive Case Managers to Counties That Do Not Have County Jails or Regional Jails

SUMMARY: This bill (and the sponsor’s proposed amendment) directs DHHS to create additional intensive case manager positions so that counties that do not have a county jail or regional jail will have an intensive case manager. Under both the bill and the sponsor’s proposed amendment, an intensive case manager oversees persons who are criminal-justice involved and who have intellectual disabilities or mental health conditions or have substance use disorder and connects them to the services for which they qualify, works with the court system to ensure that they receive due process and speedy trials and assists persons who qualify for the MaineCare program to apply for and receive MaineCare benefits and services while being detained or incarcerated, including during the implementation of diversion and reentry plans.

- *Sponsor’s proposed amendment*
 - Changes the term “substance misuse” to “substance use disorder that adversely affects a person’s daily functions”
 - Specifies that the determination of whether an individual has a “condition” is determined using appropriate screening tools or assessments
 - Clarifies that a diversion plan may be implement pre-trial or post-conviction
 - Clarifies that each ICM must be full-time
 - Provides that ICMs overseeing not only persons detained by law enforcement, but also persons incarcerated in a county or regional jail or reentry center
 - Adds rulemaking authority for DHHS (routine technical)
 - Makes other technical changes

ISSUES FROM TESTIMONY IDENTIFIED BY DHHS:

- The duties in the bill are fewer, less comprehensive and sometimes at odds with the current responsibilities of existing ICMs
- Individuals with intellectual disabilities are served by the Office of Aging & Disability Services (OADS), while ICMs are based out of the Office of Behavioral Health (OBH)
- Currently ICMs monitor individuals who have been released until the individual is connected to services, which often occurs sooner than 60 days. The 60-day time period in the bill may result in a duplication of services
- DHHS does not have exclusive control over where an ICM can be based, as this is determined by the capacity and willingness of the jail or sheriff's office

DRAFTING ISSUES / NOTES / QUESTIONS:

- Does the bill need to identify what triggers ICM involvement with a particular person? What is the timing of diagnosing and individual with one of the specified criteria? And related, who is making the diagnosis? Is it the ICM, based on prior medical records, a referral to a mental health provider while a person is criminal-justice involved?
- Should the duties of an ICM be clarified? The definition of ICMs says that they connect persons with mental health services but the other duties include developing a diversion plan that connects a person to “community-based treatment and support,” among other expanded duties, such as coordinating with the courts and MaineCare. And related, does the bill need to clarify the location those duties occur? The definition of ICM only refers to individuals who are incarcerated in a county or regional jail, but the bill as proposed to be amended by the sponsor says those services can also be provided in reentry centers.
- Should the location of an ICM be clarified? The language about assigning ICMs to counties does not mention reentry centers. If a county doesn't have a county or a regional jail, then the bill says the ICM must be located in the sheriff's office. Is that the intent? Or is the intent to include ICMs in reentry centers, too?

FISCAL IMPACT: Preliminary fiscal impact statement indicates ~\$378,000 in GF in FY 21-22 and ~\$394,000 in FY 22-21. Fiscal note required.

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- *Provided by OFPR:* More information about how the fiscal note was derived.

[T]hese new positions are the same exact position title as the current positions in the State.

*Additionally, the department noted that “4 ICM positions are needed because 8 counties are currently sharing 4 ICMs and this bill states at least one ICM position per county. The counties which are currently sharing an ICM are:
Penobscot and Piscataquis
Oxford and Androscoggin
Lincoln and Sagadahoc
Washington and Hancock”*