



Department of Public Safety and Correctional Services

Office of Government & Legislative Affairs

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JASON DAVIDSON
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BILL: HOUSE BILL 779

POSITION: SUPPORT WITH AMENDMENTS

EXPLANATION: House Bill 779 seeks to establish a Medication Review Committee within the Department of Public Safety and Correctional Services.

- The Department cares for, and has custody of, a population of incarcerated individuals who suffer from persistent and debilitating mental illness and refuse mental health treatment.
- Currently, the Department does not have statutory authority to administer psychotropic medications over an incarcerated individual's objection, absent an emergency situation.
- The inability to provide involuntary medication has far reaching consequences. Incarcerated individuals who refuse voluntary treatment face a significant risk of serious harm to themselves and others, are unable to meet their basic physical needs, and demonstrate severe deterioration in their mental and medical conditions and overall quality of life.
- HB 799 stipulates that psychotropic medications cannot be administered to individuals who refuse them, except under specific circumstances. This provision respects the autonomy and rights of incarcerated individuals while also ensuring that their health needs are met.
- This bill will equip clinical staff with the essential tools to stabilize the mental health of incarcerated individuals, while also emphasizing the critical importance of ongoing mental and medical care for their well-being. Appropriate medication management could significantly improve mental and medical health outcomes for these incarcerated individuals, reducing incidents of self-harm and aggression.
- Additionally, the bill establishes a thorough process in which a Medication Review Committee evaluates the treatment options tried and determines whether to approve or deny the use of psychotropic medications for incarcerated individuals. This ensures that

decisions are guided by clinical necessity and ethical standards. By introducing a structured review system, the bill seeks to improve the quality of care for those in custody.

- As part of the medication review process to determine if involuntary medication is clinically appropriate, the incarcerated individual has the right to attend the committee meeting, present information, including witnesses, ask questions and is assigned a lay advisor to assist them through the process.
- If the psychotropic medication is approved, the Medication Review Committee provides the decision to the incarcerated individual, the lay advisor, and is documented in the medical record. The incarcerated individual may request an administrative review by the Clinical Services Management Team after receipt of the decision.
- The U.S. Supreme Court's decision in the *Washington v. Harper* decision held that, "given the requirements of the prison environment, the due process clause permits the State to treat a prison inmate who has a serious mental illness with antipsychotic against his will, if the inmate is a danger to himself or others and the treatment is in the inmate's medical interest". The court found the internal institutional review processes established by the Department of Corrections were adequate to ensure the integrity of due process was intact.
- The Department and its facilities strive to provide the highest quality of care and intervention for these incarcerated individuals. This bill is crucial for ensuring the mental health and well-being of incarcerated individuals who are seriously mentally ill and refuse psychotropic medication.
- The Department is proposing amendments to the bill that:
 - Remove the administrative review by the Clinical Management Services Team
 - Makes clarifying changes to the criteria of when psychotropic medication may be administered in a non emergency
 - Add language that allows for an appeal to the Office of Administrative Hearings

CONCLUSION: For these reasons, the Department of Public Safety and Correctional Services respectfully requests this Committee vote **FAVORABLE WITH AMENDMENTS** on House Bill 779.