Fiscal Note & Local Impact Statement

123 rd General Assembly of Ohio

BILL:	**Am. H.B. 71**	DATE:	**February 11, 1999**
STATUS:	**As Reported by House Health, Retirement &Aging**	SPONSOR:	**Rep. Vesper**

LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting savings**

CONTENTS: **Duties regarding the actions of mental health professionals and organizations**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1999	FY 2000	FUTURE YEARS
Counties			
Revenues	-0-	- 0 -	- 0 -
Expenditures	Potential savings	Potential savings	Potential savings
Local Mental Health Boards and School Districts			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Negligible increase plus potential savings	Negligible increase plus potential savings	Negligible increase plus potential savings

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Counties.** Civil liability cases involving significant dollar amounts are heard in Courts of Common Pleas, whose operations are funded by counties. The bill could reduce the number of civil liability cases filed involving mental health professionals and mental health organizations, thus, resulting in a savings to counties.

- **Local Mental Health Boards and School Districts.** The duties required by the bill of mental health professionals and organizations to predict, warn of, or prevent the violent behavior of mental health clients could result in a negligible increase in costs for psychotherapists with whom local mental health boards contract and school districts contract or employ. However, the bill would also reduce future liability costs for local mental health boards and school districts by providing immunity for the same psychotherapists.

Detailed Fiscal Analysis

In 1997, the Ohio Supreme Court held that the provisions of the Revised Code providing immunity for mental health professionals and mental health organizations apply only to civil commitment proceedings and do not provide immunity to psychotherapists who provide outpatient treatment (*Estate of Morgan v. Fairfield County Counseling Center*).

Under the bill, a mental health professional or mental health organization may be found liable for damages if an explicit threat toward another individual has been communicated to them, only if they have reason to believe the client has the intent and ability to carry out the threat, and they fail to take one of the following actions in a timely manner:

(1) exercise any authority they possess under Ohio law to hospitalize the client on an emergency basis;

(2) exercise any authority they possess under Ohio law to have the client involuntarily or voluntarily hospitalized;

(3) establish and undertake a documented treatment plan, according to appropriate standards of professional practice, to minimize the possibility that the client will carry out the threat;

(4) communicate the threat to the appropriate law enforcement agency (as defined by the bill) and each potential victim or their parent or guardian (as defined by the bill) of the nature of the threat, the identity of the client making the threat, and the identity of any other potential victims of the threat.

The bill would reduce future liability costs for local mental health boards by providing immunity for the psychotherapists with whom the boards contract. The bill would also reduce future liability costs for school districts by providing immunity for the psychotherapists they employ or with whom they contract. Although local mental health boards and school districts would incur some costs meeting one of the required actions described above, such costs would be negligible and would be offset by savings resulting from a decrease in future liability costs.

Civil liability cases involving dollar amounts of $15,000 or less are heard in municipal or county courts, whose operations are funded by municipalities and counties, respectively. Civil liability cases involving dollar amounts of more than $15,000 are heard in Courts of Common Pleas, whose operations are funded by counties. Because this bill involves the threat of violent behavior, LBO assumes that civil cases filed stemming from such behavior would most likely involve plaintiffs asking for more than $15,000 in damages. By more clearly stipulating circumstances limiting civil liability, the bill could reduce the number of such cases that are filed, which would result in savings to counties.

❑ *LBO staff Chuck Phillips, Senior Analyst*

\\Budget_office\isis_vol1.lbo\FN123\hb0071in.doc