

# Fiscal Note

State of Alaska  
2022 Legislative Session

Bill Version:	CSHB 172(JUD)
Fiscal Note Number:	7
(H) Publish Date:	2/28/2022

Identifier: HB172-DFCS-IMH-2-11-2022  
 Title: MENTAL HEALTH FACILITIES & MEDS  
 Sponsor: RLS BY REQUEST OF THE GOVERNOR  
 Requester: (H) JUD

Department: Department of Family and Community Services  
 Appropriation: Inpatient Mental Health  
 Allocation: Designated Evaluation and Treatment  
 OMB Component Number: 3355

## Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates					
			FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
<b>OPERATING EXPENDITURES</b>								
Personal Services	94.9		113.9	113.9	113.9	113.9	113.9	113.9
Travel	3.2		3.2	3.2	3.2	3.2	3.2	3.2
Services	108.0		108.0	108.0	108.0	108.0	108.0	108.0
Commodities	19.0		4.0	4.0	4.0	4.0	4.0	4.0
Capital Outlay								
Grants & Benefits	600.0		1,500.0	2,700.0	2,700.0	2,700.0	2,700.0	3,900.0
Miscellaneous								
<b>Total Operating</b>	<b>825.1</b>	<b>0.0</b>	<b>1,729.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>4,129.1</b>

## Fund Source (Operating Only)

1007 I/A Rcpts (Other)	150.0		300.0	300.0	300.0	300.0	300.0	300.0
1037 GF/MH (UGF)	675.1		1,429.1	2,629.1	2,629.1	2,629.1	2,629.1	3,829.1
<b>Total</b>	<b>825.1</b>	<b>0.0</b>	<b>1,729.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>2,929.1</b>	<b>4,129.1</b>

## Positions

Full-time	1.0		1.0	1.0	1.0	1.0	1.0	1.0
Part-time								
Temporary								

## Change in Revenues

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Estimated SUPPLEMENTAL (FY2022) cost:** 0.0 (separate supplemental appropriation required)

**Estimated CAPITAL (FY2023) cost:** 0.0 (separate capital appropriation required)

**Does the bill create or modify a new fund or account?** No  
 (Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

## ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
 If yes, by what date are the regulations to be adopted, amended or repealed? 07/01/24

## Why this fiscal note differs from previous version/comments:

This fiscal note has been updated to reflect FY23 and the change to the Department of Family and Community Services. Changes include reassessment of DES/DET facility costs; an increase in the number of projected DES/DET facilities to include non-DSH eligible tribal entities; and the inclusion of 1 FTE and legal fees.

Prepared By:	Clinton Lasley, Deputy Commissioner	Phone:	(907)465-3030
Division:	Office of the Commissioner	Date:	01/07/2022
Approved By:	Sylvan Robb, Assistant Commissioner	Date:	01/24/22
Agency:	Department of Health and Social Services		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2022 LEGISLATIVE SESSION

## Analysis

Introduction of this bill is required to fulfill the department's obligations under the settlement in Case No. 3AN-18-9814 CI with the Disability Law Center (DLC) on September 3, 2020. The settlement includes a requirement that the department improve capacity for individuals to receive timely evaluations and treatment in the least restrictive settings.

Crisis stabilization services will free up public safety resources for police and Alaska State Troopers, Corrections, and the Court System.

The current system relies on law enforcement, emergency medical services (EMS), and hospital emergency rooms to serve people in behavioral health crisis. Crisis stabilization services provide an opportunity to divert individuals experiencing a behavioral health emergency to the appropriate level of behavioral health treatment.

Without these services, law enforcement officers are often the first to respond and continually engage with individuals in behavioral health crisis, which is largely outside of their scope of training. Increasing the availability of crisis stabilization services across Alaska allows law enforcement to focus more on crime prevention and other law enforcement activities.

This bill allows a new facility type to seek departmental designation to become evaluation facilities for involuntary commitment, similar to current Designated Evaluation and Stabilization (DES) and Designated Evaluation and Treatment (DET) centers, thereby expanding capacity for psychiatric stabilization and treatment.

State regulatory guidance currently allows only hospitals to be designated as DES/DET entities. This bill authorizes DES/DET like services to be implemented at non-hospital locations if designated by the department in advance of state regulation updates. The department will adopt regulations as soon as possible, on or before 7/1/2024. The updated regulations will allow DES facilities to qualify for federal Disproportionate Share Hospital (DSH) funding.

Funding used to support DES/DET hospitals leverages the DSH fund source, which is also limited to hospitals.

Because not all individuals subject to a civil commitment have insurance, this fiscal note analysis reflects the costs associated with those individuals who are not covered by a payor – including private insurance or Medicaid – but require services through a facility designated as a DES/DET. The 1115 Behavioral Health Medicaid Waiver (1115 Waiver) will pay for DES/DET services when 1115 Waiver crisis stabilization services are provided by a Medicaid provider with an 1115 Waiver specialty and the patient is a Medicaid patient.

The non-hospital locations contemplated in this bill include a 23-hour crisis observation and stabilization center. A 23-hour crisis observation and stabilization center will provide prompt observation and stabilization services to individuals presenting with acute symptoms of emotional distress for up to 23-hours and 59 minutes in a secure environment. A short-term crisis residential center is a medically monitored short-term residential program in a facility that provides 24/7 psychiatric stabilization. This fiscal note serves to compensate providers when there is no other payor source, in an amount that is sufficient to pay for DES/DET services.

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2022 LEGISLATIVE SESSION

BILL NO. HB172

**Analysis**

While a significant number of service recipients will be Medicaid eligible, not all recipients seeking services will be Medicaid eligible, meaning not all costs incurred will be reimbursable by Medicaid. A facility operating as a DES/DET does not have the option to refuse service, and therefore will incur unpaid costs. DES/DET facilities use the “no wrong door” approach, where any individual, regardless of their ability to pay, will receive services when an individual is ordered there by the court as a civil commitment.

Traditionally, the department utilizes DSH funding for hospitals that are designated as a DES/DET to cover the costs associated with providing uncompensated care to individuals who do not have a payor source for services. DSH funding is a combination of state and federal funding, with the federal portion limited to hospitals and the state portion defined in Alaska Administrative Code. The proposed DES/DET facilities in this bill that are not hospitals or that are tribal entities will not qualify for the federal match portion of DSH funding per federal regulations.

Funding will need to be available to cover the services for which federal DSH funding is not available and also to cover individuals with no payor source. Without this funding, it is unlikely that new entities (non-hospitals and tribal entities) will become DES/DET providers. The funding reflected in this fiscal note reflects the estimated cost to the department to cover state general funded DES/DET facilities, as no federal match would be available.

In FY 2022, a new Executive Order was introduced that restructures the Department of Health and Social Services (DHSS) into two departments: the Department of Health (DOH) and the Department of Family & Community Services (DFCS). After the restructure, the administration of DES/DET will transition from the Division of Behavioral Health (DBH), DOH to DFCS.

DES / DET Facility Uncompensated Care Costs							
		FY23	FY24	FY25	FY26	FY27	FY28
A	# of DSH qualifying facilities	1	2	2	2	2	2
B	Fed DSH (in Medicaid Services fiscal note)	\$150	\$300	\$300	\$300	\$300	\$300
C	UGF match for DSH (this fiscal note)	\$150	\$300	\$300	\$300	\$300	\$300
D	# of Non-DSH qualifying facilities	1	3	7	7	7	11
E	UGF funding for facilities in lieu of DSH (this fiscal note)	\$300	\$900	\$2,100	\$2,100	\$2,100	\$3,300
A+D	# of Total DSH facilities	2	5	9	9	9	13
B	Fed total (Medicaid Services fiscal note)	\$150	\$300	\$300	\$300	\$300	\$300
C+E	UGF total (page 1 this fiscal note)	\$450	\$1,200	\$2,400	\$2,400	\$2,400	\$3,600

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2022 LEGISLATIVE SESSION

BILL NO. HB172

### Analysis

Some new DES/DET facilities will not qualify for the federal share of Disproportionate Share Hospital (DSH) funding, because not all facilities are hospitals and some of the facilities will be tribal hospitals which do not qualify for DSH per federal regulations. The department anticipates that it will cost \$300.0 per new DES/DET facility that is added. This amount reflects the average of DES/DET expenditures from a look back period of 3 years. An average estimate was used due to an anticipated decrease in the utilization of DES/DET services as a result of 23-hour crisis stabilization services.

In FY23, the state anticipates that one hospital and one non-hospital will stand up DES/DET services. The hospital will be eligible for 50% federal match of the estimated \$300.0. The one non-hospital will require 100% state funding of the estimated \$300.0.

In FY24, the state anticipates that there will be one hospital and two non-hospitals to stand up these services. The hospital will be eligible for 50% federal match of the estimated \$300.0. The two non-hospitals will require 100% state funding.

In FY25 - FY27, the state anticipates that tribal entities will stand up these services in rural Alaska. Tribal entities are not eligible for federal match. Therefore, state funding will need to cover the additional four DES/DET entities anticipated for FY25. The state anticipates that this amount will stay consistent from FY25 to FY27.

In FY28, the state anticipates that more tribal entities, in increasingly rural areas, may provide DES/DET services through 23-hour crisis stabilization services. Therefore, state funding increases in FY28 to cover four additional DES/DET entities.

The interagency receipts are supported with federal receipts in the Medicaid appropriation.

#### **Additional costs associated with implementing HB 172:**

**Personal Services:** 1 full-time employee (FTE) is needed at an annual cost of \$113.9. The salary amount will be prorated in FY23 to reflect a September 1, 2022 hire date.

*Health Program Manager II*

Range 19 Step C based in Anchorage

Salary: \$68,270 Benefits: \$45,598 Total: \$113,868.

**Travel:** Administrative site visits to assist with licensure process: \$3.2 annually

**Services:** Reimbursable Services Agreement (RSA) to the Department of Law, Civil Division at an annual estimated cost of \$90,000. The Department of Law Civil Division will provide legal services for the Department of Health, Division of Behavioral Health (DBH) at the Office of Management and Budget approved FY 2022 rate of \$169.16 per attorney hour and \$109.22 per paraprofessional hour. In addition, DOH/DBH will reimburse Law for direct case costs including but not limited to case specific travel, contractual costs, materials, courier, processing fees, etc. to total an additional \$18,000.00 per year.

**Commodities:** \$19.0 for FY23 to purchase IT equipment and additional office supplies for the new position and then \$4.0 for subsequent years