

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 15, 2011
POSITION: Neutral

BILL NUMBER: AB 1114
AUTHOR: B. Lowenthal

BILL SUMMARY: Involuntary Administration of Psychotropic Medications

This bill would change the process under which the California Department of Corrections and Rehabilitation (CDCR) can involuntarily administer psychotropic medication to inmates, as specified.

FISCAL SUMMARY

The CDCR indicates that this bill would result in savings of \$2.2 million General Fund (GF) annually. In 2010, the CDCR spent approximately \$1.4 million on Administrative Law Judges (ALJ), inmate counsel, and filing fees with the Office of Administrative Hearings (OAH) related to the involuntary administration of psychotropic medication.

The CDCR expects additional savings resulting from fewer Correctional Officer escorts and transportation of inmates to and from renewal hearings. The CDCR has not been able to estimate these additional savings.

COMMENTS

The Department of Finance is neutral on this bill.

Current law permits the involuntary administration of psychotropic medication to prisoners where the process specified in Keyhea v. Rushen (Keyhea) has been followed. The Keyhea process:

- Permits psychotropic medication to be administered to an inmate without his or her informed consent on an emergency basis for no more than three days unless the inmate is provided with certain due process protections, including a notice of certification.
Prohibits the administration of involuntary medication to inmates in excess of 10 days unless the inmate is provided with a certification review hearing.
Prohibits the administration of involuntary medication to inmates in excess of 24 days unless the inmate is provided with a formal judicial hearing before an ALJ, in which the inmate is entitled to legal counsel.
Provides that the order resulting from the formal judicial hearing expires in 180 days if that inmate is found to be a danger to self or others, or one year if the inmate is found to be gravely disabled and incompetent to refuse medication.

(continued)

Analyst/Principal Date Program Budget Manager Date
(0233) J. Howard Lisa Ann L. Mangat

Department Deputy Director Date

Governor's Office: By: Date: Position Approved
Position Disapproved

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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AB 1114

COMMENTS (continued)

This bill would:

- Delete the provision regarding the medication process specified in Keyhea.
- Allow for the involuntary administration of psychotropic medications to inmates, as specified.
- Provide that the involuntary administration of psychotropic medication to inmates requires a hearing in which an ALJ determines by clear and convincing evidence that the inmate has a mental illness or disorder, and as a result of that illness, the inmate is gravely disabled and lacks the capacity to consent or refuse treatment or is a danger to self or others if not medicated, and that there is no less intrusive alternative to the medication and the medication is in the inmate's best interest.
- Require notice of a hearing to be filed with the OAH within 72 hours of administering medication on an emergency basis.
- Require the hearing to commence within 21 days of the filing.
- Provide that an order providing for the involuntary administration of psychotropic medications is valid for one year and that the order may be renewed annually, as specified.
- Require that the inmate be provided with written notice and provided counsel at least 21 days prior to the hearing.
- Allow the inmate to file one motion for reconsideration, as specified.

This bill would incorporate changes to Penal Code Section 2600 made by AB 109, which has been chaptered but is not yet operative, to become operative only if AB 109 becomes operative.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code	
	LA	(Dollars in Thousands)									
	CO	PROP									
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014			
5225/Corr & Rehab	SO	No	M	-\$1,100	M	-\$2,200	M	-\$2,200		0001	
8910/Admin Law	SO	No		----- See Fiscal Summary -----							0995
<u>Fund Code</u>	<u>Title</u>										
0001	General Fund										
0995	Reimbursements										