

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 57<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 3217</b>
<b>Version:</b>	<b>Introduced</b>
<b>Request Number:</b>	<b>10223</b>
<b>Author:</b>	<b>Lawson</b>
<b>Date:</b>	<b>2/10/2020</b>
<b>Impact:</b>	<b>\$206K-1.3M</b>

**Research Analysis**

HB 3217 provides that, if DHS does not have sufficient funds to pay for involuntary protective services for a vulnerable adult, the facility in which the individual has been placed may either discharge the individual back into DHS custody or continue to provide services and offset the cost as a credit toward any amounts the it may be obligated to pay a state agency. Any amount not offset in the current year will carry over for reimbursement or credit in subsequent years. Additionally, the bill requires the court to appoint DHS as temporary guardian of a vulnerable prior to placing the individual in a facility.

Prepared By: Marcia Johnson

**Fiscal Analysis**

Expansion of Adult Protective Services staff to handle the influx of involuntary services:

3 APS Supervisors (APSS IVs)	\$226,820.90 (\$75,606.97 per person)
3 APSS IIIs	\$206,448.04 (\$68,816.01 per person)
21 APSS IIs	\$1,341,423.84 (\$63,877.33 per person)

Training:

APS III & IV Academy for 3 APS IVs & 3 APSS IIIs: \$2,970.00 (\$495.00 per person)

APS New Worker Academy for 21 APSS IIs: \$20,685.00 (\$985.00 per person)

APS Follow-Up Academy for 21 APSS IIs: \$10,395.00 (\$495.00 per person)

Ongoing Training Cost: Unavailable

Ongoing Travel Cost: Unavailable

Total Annual Salary & Benefits Cost: Total-\$1,774,692.78 / \$1,481,158.60 State

Total Initial Training Cost: Total \$34,050.00 / \$28,418.13 State

Total for both FTE and Training is \$1,808,742.78 Total Dollars / \$1,505,576.73 State Dollars.  
State Share is 83.46%

Prepared By: Stacy Johnson

## **Other Considerations**

APS refers clients to community services and has no services of its own to offer. If the client is immediately discharged from a nursing facility, we may not be able to find another placement for the client. We cannot force facilities to accept clients even when we have temporary guardianship.

APS is mandated to arrange for the provision of available protective services in the least restrictive manner. If the state guardianship has been dismissed after the client has been placed into a nursing facility and is receiving the level of care they require, we cannot accept the vulnerable adult back into custody without appropriate court action. The client would have to meet the criteria for involuntary services, and we would have to follow state statute for pursuing involuntary services again if needed.

Nursing facilities have the ability to file to be appointed the representative payee for residents. Many facilities are reluctant to become the payee for their residents, and they are not doing their due diligence in ensuring payment through legal avenues that are available to them.

Federal and state law gives nursing home residents legal protections when facing discharge. Most discharge notices must be given at least 30 days prior to the discharge date, and residents have the right to appeal within 10 days of notice. APS clients should be allowed the same rights as all other nursing home residents when facing discharge from a nursing facility.

Title 43A guardianships are temporary in nature, and it can often take an extended period of time to obtain approval for Medicaid benefits. In an effort to be proactive rather than reactive, APS has taken steps to address this issue by revising our policy to include specific instructions to staff in OAC 340:5-5-3 (10) (2) & (3) addressing the Medicaid issue for APS clients. It states:

- (2) Medicaid follow-ups must be assigned by the APS specialist IV or designee, when:
  - (A) there is a new application for Long-Term Care (LTC) benefits, either nursing home or ADvantage Waiver services and whether or not the application was made by APS;
  - (B) there is a recent closure or denial of LTC benefits; or
  - (C) a review for LTC benefits is due within the month.
- (3) The Medicaid process must be monitored monthly until a satisfactory decision to certify or deny has been documented in the APS Computer System Service Plan Monitoring Notes. Medicaid follow-ups must continue on dismissed guardianship cases until the issue is resolved.

APS also has APS specialists who are specialized in Medicaid who assist with obtaining eligibility for APS clients. We have a strong working relationship with AFS to identify vulnerable adults who are having issues with Medicaid eligibility. A visual aid of the process in seeking assistance for these clients is attached.

If nursing facilities are allowed to offset fines, they could become apathetic about how well they take care of residents and the quality of care for residents could decline.

APS wants to prevent these issues from happening, and we are willing to have discussions to identify the root cause of the issues that the bill wants to address rather than having a bill that could have unintended consequences for our most vulnerable population.

