

# Iowa Legislative Fiscal Bureau

Dennis Prouty  
(515) 281-5279  
FAX 281-8451



State Capitol  
Des Moines, IA 50319  
December 7, 1999

## Sexually Violent Predator Commitment Program

### ISSUE

A background of the Sexually Violent Predator Commitment Program, including a review of first year expenditures.

### AFFECTED AGENCIES

Department of Human Services  
Office of the Attorney General  
Department of Corrections

### CODE AUTHORITY

Chapter 229A, Code of Iowa  
Chapter 1218, 1998 Iowa Acts  
House File 760 and Senate File 468, as enacted by the 1999 Iowa General Assembly

### BACKGROUND

Senate File 2398 (Sexually Violent Predator Act) as enacted by the 1998 General Assembly was designed to detain sexually violent predators while providing mental health treatment to them after completion of sentences. Senate File 2398 was based upon Kansas statute, which has been upheld by the United States Supreme Court. Approximately 20 other states have similar statutes.

The Sexually Violent Predator Act involves three departments of State government, the Department of Corrections is responsible for confinement, the Office of the Attorney General for the legal process to retain the offender, and the Department of Human Services (DHS) which provides the mental health treatment. Intradepartmental agreements provide for necessary transactions between the Departments.

As of November 3 there were four persons committed to the Sexually Violent Predator Commitment Program and confined in the Oakdale Treatment Facility. These commitments have been by agreeing without a trial, by order of a judge, or by a jury trial. A portion of the Oakdale Facility has been remodeled to provide space for six offenders. The DHS pays the Department of Corrections for costs related to the space provided at the Oakdale Facility. The DHS has renamed the Program the "Civil Commitment Unit of Sex Offenders." The Office of the Attorney General refers to the Program as the Sexually Violent Predator Act.

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The 1998 General Assembly provided the Department of Human Services with a \$500,000 General Fund appropriation for the initial year of expenditures in FY 1999 for the entire Program. Legislative intent provided that \$269,000 of the funds appropriated were to be transferred to the Office of the Attorney General and \$231,000 were to be retained by the DHS for expenditures relating to treatment. The 1999 General Assembly provided a supplemental appropriation of \$115,023 to the DHS for the treatment portion of the Program, bringing the DHS portion of the total to \$346,023 for FY 1999.

Also appropriated was \$1,531,000 for FY 2000 in HF 760 (FY 2000 Human Services Appropriations Act). The General Assembly adjusted the FY 2000 appropriation between the DHS and the Office of the Attorney General. Instead of one appropriation with the DHS transferring a portion of the funds to the Office of the Attorney General, each agency received a separate appropriation. Therefore, only legal costs specifically incurred by the DHS during the course of providing treatment (estimated at \$84,000 for FY 2000) will be transferred and not the entire legal component as occurred for FY 1999. Senate File 468 (FY 2000 Justice Appropriations Act) appropriated \$300,000 to the Office of the Attorney General for sexually violent predator commitment proceedings. **Table 1** shows a comparison between FY 1999 and FY 2000 appropriations.

**Table 1**  
**Sexual Predator Program Transfers between Departments**

Year	Fiscal	DHS	Attorney General
FY 1999			
Original Appropriation of \$500,000		\$231,000	\$269,000
Supplemental Appropriation		115,023	0
Total FY 1999 Appropriation		\$346,023	\$269,000
FY 2000			
Original Appropriations		\$1,531,000	\$300,000
Expected DHS transfer to AG		-84,000	84,000
Total FY 2000 Appropriation		\$1,447,000	\$384,000

**Table 2** shows the planned budget and expenditures for the DHS treatment component for FY 1999, as of September 20, 1999. **Table 2** also shows the original FY 2000 budget planned upon adjournment of the Legislative Session as well as the adjusted FY 2000 budget (in shading) submitted to the Legislative Fiscal Committee in September, upon request. The adjustment was based upon the absence of planned number of committed individuals. The shading represents the proposed changes, both in the chart and the detail. **Table 2** indicates that:

- Without the cost overruns by the Office of the Attorney General and the DHS, a supplemental appropriation for FY 1999 would not have been necessary. The supplemental was based upon having five persons in the Program during FY 1999. Since there was only one person at the end of the Fiscal Year, cost overruns might not have been necessary.
- Unless the number of persons committed to the Program in FY 2000 increases, an adjustment greater than the \$267,000 provided in September by the DHS may be appropriate, focusing on staffing expenditures.

**Table 2**  
**DHS Sexual Predator Program Budgets and Expenditures**

<u>Exp. Category</u>	<u>FY 1999 Orig. Budget</u>	<u>Revised w/ Supp.</u>	<u>FY 1999 Expend.</u>	<u>FY 2000 Budget</u>	<u>F.C. Req. Rev. Amts.</u>	<u>Amount Change</u>
Salaries	\$198,453	\$208,500	\$139,953	A \$1,024,072	\$835,694	\$188,378
Travel	1,000	3,875	22,746	B 15,750	15,750	
Office Supp.	0	5,000	13,632	8,000	8,000	
Facil. Maint.	0	33,000	11,143	C 0	0	
Prof. Supplies	0	5,000	0	10,000	10,000	
Housekeeping	0	0	1,230	0	0	
Other Supplies	0	10,000	756	D 18,000	8,000	10,000
Drugs	0	1,000	0	5,000	5,000	
Commun.	0	500	258	15,000	15,000	
Prof/Sci. Svcs.	0	4,000	0	90,000	90,000	
Outside Svcs.	0	5,000	0	30,000	15,000	15,000
Intra. Transfer	31,547	6,380	0	E 131,400	93,075	38,325
Advertising	0	1,000	4,860	500	500	
Attorney Gen.	269,000	269,000	290,286	83,751	83,751	
Auditor	0	1,000	0	15,000	10,000	5,000
Reimb. Depts.	0	5,000	0	F 40,000	32,800	7,200
Tech. Expend.	0	0	0	7,627	5,000	2,627
Equipment	0	3,500	19,882	8,400	G 8,400	
Office Equip.	0	3,500	0	10,000	10,000	
Noninv. Equip	0	500	0	1,500	1,500	
DP Equip	0	27,268	29,447	10,000	H 10,000	
Noninv. DP	0	21,000	0	5,000	5,000	
Claims	0	250	0	500	500	
Other Exp.	0	250	0	500	500	
Fees	0	250	0	500	500	
Licenses	0	250	0	500	500	
Unexplained	0	0	-7,776	0	0	
Adj.						
Reversion	0	0	88,606	0	0	
	<u>\$500,000</u>	<u>\$615,023</u>	<u>\$615,023</u>	<u>\$1,531,000</u>	<u>I \$1,264,470</u>	<u>\$266,530</u>

Notes:  
 A: The salaries for FY 1999 include two psychologists, two treatment program supervisors, and 11 psychiatric security specialists. For FY 2000, salaries includes 13 psychiatric security specialists, one supervisor, three psychologists, two accountants, and one typist.  
 B: For FY 1999, travel includes moving expenditures of \$13,000 for Program Director.  
 C: For FY 1999, facility maintenance includes remodeling of \$10,700.  
 D: Includes cleaning supplies and patient entertainment.  
 E: Includes space contract with the Department of Corrections.  
 F: Includes workers compensation, unemployment compensation, staff training.  
 G: For FY 1999, includes furniture, television, VCR, and polygraph equipment.  
 H: For FY 1999, includes five personal computers and affiliated equipment.  
 I: Documentation from DHS dated July 1 indicates a reversion of \$90,016 (78.3% of FY 1999 supplemental appropriation). Also, June 30, 1999, documentation from DHS to the Department of Management indicates an estimated balance of \$125,000. The difference is the training and technology carryover of the operating funds which are represented in the expenditure column in **Table 2**. The \$125,000 does not include the \$19,000 expenditure by the Office of the Attorney General which exceeded legislative intent. With that in mind, the FY 1999 reversion expected is now \$71,000 (61.7% of the FY 1999 supplemental appropriation).  
 Source: DHS

Salaries: Classification plan changes were made resulting in FY 2000 positions of one information technologist, one social worker, 11 psychiatric security specialists, three psychologists, two treatment program supervisors, one-fourth accountant, one-fourth human resource associate, and one-half of a position for a vacancy factor. A decrease of two psychiatric security specialists occurs, since eleven is adequate until more than 20 patients are in the Program. An additional psychologist position is planned to be filled in March. The social worker position is not scheduled to be filled until FY 2001.  
 Other supplies: Decrease due to patient numbers not reaching expectations.  
 Outside services: Decrease due to patient numbers not reaching expectations.  
 Transfers: Reduction from 12.0 patient level to 8.5 patient level for FY 2000 in decreased contract costs with the Department of Corrections.  
 Audit: Adjustment in estimated cost.  
 Reimburse other departments: Reduction in patient level results in decreased contract costs.  
 Technology expenditures: Reduction in patient level resulting in reduction in staff costs. Information system not implemented in FY 2000.

**Table 3** shows the FY 1999 expenditures of the Attorney General. The expenditures of \$290,000 are as of September 30. This \$290,000 exceeds legislative intent of \$269,000. The Office of the Attorney General indicates that the Professional Services category (consultants and experts) exceeded the planned expenditures.

**Table 3**  
**FY 1999 Attorney General Expenditures**  
**for the Sexual Predator Program**

Category of Expenditure	FY 1999 Amount
Salaries	\$116,390
Instate Travel	5,474
Out of State Travel	2,613
Office Supplies	928
Other Supplies	16
Communication	336
Professional Services	76,582
Outside Services	2,777
Advertising	173
Office Equipment	29,639
Equipment Inventory	47,012
Data Processing Inventory	1,806
Data Processing, noninventory	6,540
<b>Total</b>	<b>\$290,286</b>

Source: Office of the Attorney General

### **ALTERNATIVES/BUDGET IMPACT**

The General Assembly may wish to review the court cases which may determine the number of individuals placed in the Sexually Violent Predator Commitment Program. Court action will determine the appropriation need for FY 2000 and FY 2001, depending on the success of the Office of the Attorney General regarding the outcome of the trials or decisions by judges. There may be a possibility that the proposed decrease by the DHS of \$267,000 from the FY 2000 appropriation will be even a greater amount if the plaintiffs (prisoners) win cases and are released rather than committed.

The DHS has indicated to the Legislative Fiscal Committee tentative plans to expand space to house 20 persons within the Program at the Oakdale Facility. After that space is filled, the DHS plans to move the Program to a different location. The General Assembly may want to provide direction regarding remodeling of space that may not be used in the near future if the Program expands beyond 20 persons. Estimates for the total number of possible persons in the Program are not available due to the unknown length of time of treatment for each person and future court action. The funds used in FY 1999 and planned for FY 2000 for remodeling are from the General Fund appropriation and not the Rebuild Iowa Infrastructure Fund (RIIF).

STAFF CONTACT: Sue Lerdal (Ext. 17794)