



**Colorado
Legislative
Council
Staff**

HB17-1329

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 17-1062

Date: April 19, 2017

Prime Sponsor(s): Rep. Lee; Landgraf

Bill Status: House Judiciary

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BILL TOPIC: REFORM DIVISION OF YOUTH CORRECTIONS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
Cash Funds	Increase. Potential gifts, grants, or donations.	
State Expenditures	<u>\$726,629</u>	<u>\$638,158</u>
General Fund	711,632	586,348
Centrally Appropriated Costs	14,997	51,810
TABOR Impact	Increase.	
FTE Position Change	1.2 FTE	4.0 FTE
Appropriation Required: \$711,632 - Department of Human Services (FY 2017-18).		
Future Year Impacts: Ongoing increase in state expenditures and potential increase in state revenue.		

Summary of Legislation

This bill changes statutes governing the Division of Youth Corrections (DYC) within the Department of Human Services (DHS). It changes the name of DYC to the "Division of Youth Services" and redefines DYC's purpose. It requires DYC, on and after January 1, 2018, to implement a pilot program to aid in the creation of a division-wide therapeutic and rehabilitative culture. The pilot repeals July 1, 2021.

Pilot program. As part of the pilot, DYC must provide treatment to at least 20 committed youth, divided into groups of no more than 12. Staff and youth must be assigned to teams that remain throughout the pilot. Staff assigned to the pilot must have specific training and may not be assigned solely as security staff. DYC must perform construction and renovation as necessary to place youth in a home-like, least-restrictive environment. Within the first year of the pilot, DYC must completely end the use of restraint methods that physically harm youth, mechanical restraints other than handcuffs, and the practice of isolating youth during waking hours.

DYC must contract with two independent third parties throughout the pilot program. First, by December 1, 2017, DYC must contract with an independent third party to train staff and leadership throughout the pilot and to collect and analyze data. Second, on or before

June 1, 2021, DYC must contract with a separate independent contractor to assess the data provided by the third party and complete an evaluation of the effectiveness and outcomes of the pilot. The bill creates a Division of Youth Services Pilot Program Cash Fund subject to annual appropriation by the General Assembly. The fund can accept gifts, grants, and donations. All unexpended funds as of July 1, 2021, revert to the General Fund.

Evaluation of division. Separate from the parties described above, DYC must contract with an independent third party to conduct a performance assessment that evaluates safety in all facilities of the division by December 1, 2017. The assessment must review the division's safety protocols and procedures and use of restraints and seclusion and make comparisons with best practices and outcomes. The third party must complete a report on the assessment, including recommendations, by May 1, 2018, for submission to the General Assembly.

Community boards. The bill creates, in each region of DYC, a community board to promote transparency and community involvement, opportunities for youths to build positive adult relationships, and youth involvement in the community. Each board must have six members with diverse experience. The Governor or his designee must appoint each member of the each board to a term of three years, who serve without compensation. They must meet at least once every three months. A management-level employee of each DYC facility must attend each meeting of the board in their facility's region. Board members may access DYC facilities on at least a quarterly basis.

Reporting and release of information. The bill adds that in its biannual report to the General Assembly, the Youth Restraint and Seclusion Working Group must include details on the use and type of restraints used in incidents involving youth. The report must include an incident report for any youth whom DYC isolates for more than eight hours in two consecutive calendar days. The incident report must include the age, race, and gender of the youth; the name of the facility; the length of time the youth was isolated; and the reason. All critical incident summaries must include certain specified information that cannot be redacted by DYC. DYC may charge a fee for the release of records, except that a member of the General Assembly may obtain critical incident information from DYC free of charge twice per year. An attorney for a juvenile who presents DYC with a valid records request is entitled to all records, including documents and video recordings, related to the juvenile while he or she was in DYC's custody.

Audits. The bill requires the state auditor, on or before January 1, 2019, and every year thereafter, to audit DYC's reports of recidivism rates and educational outcomes for committed youth.

State Revenue

The bill may increase state revenue in DHS from gifts, grants, or donations. As of this writing, no such source has been identified. Revenue from gifts, grants, or donations is TABOR exempt. The bill will also increase fee revenue in DHS from records requests. The exact amount of this increase will depend on the number and complexity of requests and has not been estimated.

TABOR Impact

This bill increases state cash fund revenue from fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. TABOR refund obligations are not expected for FY 2016-17.

Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

The bill increases state General Fund expenditures in DHS by \$726,629 and 1.2 FTE in FY 2017-18 and by \$638,158 and 4.0 FTE in FY 2018-19. It also increases workload in the Office of the State Auditor. These impacts are shown in Table 1 and discussed below.

Table 1. Expenditures Under HB17-1329		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$64,505	\$234,963
FTE	1.2 FTE	4.0 FTE
Operating Expenses and Capital Outlay Costs	13,343	17,909
Renovations	162,244	10,000
Pilot Program Implementation and Training	105,000	180,000
X-ray machine	200,000	20,000
Pilot program evaluation	24,000	24,000
Computer Programming	37,064	
Video redaction software	9,000	3,000
Legal Services	96,476	96,476
Centrally Appropriated Costs*	14,997	51,810
TOTAL	\$726,629	\$638,158

*Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. The fiscal note makes the following assumptions:

- implementation of the pilot will take place in existing DYC facilities, which will require renovations to create a home-like environment;
- the pilot program will begin on January 1, 2018, with the renovations to the facilities, purchasing of new furniture, selection of staff, and other set up tasks;
- the initial phase will take three to six months;
- consultant services are estimated at \$1,500 per day and are inclusive of fees, insurance, overhead, travel, lodging, and meals; and
- expenses related to the performance assessment and evaluation of DYC have already been funded and require no increase in appropriations.

Department of Human Services, pilot program expenses. DYC requires 3.0 FTE to staff teams working on the pilot: one dedicated supervisor per team and one unit manager for both teams. The fiscal note assumes a start date of May 1, 2018, for new staff and approximately 20 days of training for all staff working on the pilot to begin in May. Implementation costs assume approximately 50 consultant days in FY 2017-18. Ongoing implementation costs are estimated at 120 days in FY 2018-19. Because the pilot program prohibits strip searches unless there is a reasonable suspicion that a youth has contraband, DYC requires an x-ray machine at a cost of \$200,000 in FY 2017-18 and \$20,000 in ongoing maintenance to ensure the safety of youth and staff. Costs to evaluate the pilot include an estimated 200 hours at \$120 per hour in both

FY 2017-18 and FY 2018-19. Costs to administer the pilot continue into FY 2020-21; future costs have not been estimated in the fiscal note and will be addressed through the annual budget process.

Department of Human Services, other expenses. DYC needs additional software and computer equipment in order to redact video and computer programming of the TRAILS system through the Office of Information Technology in order to comply with the reporting requirements under the bill. The release of critical incident reports free of charge to the General Assembly is expected to increase the number and volume of these requests. Costs include 1.0 FTE, assumed to start July 1, 2017, to assist with the redaction and release of records and video footage. Personal services expenditures for this FTE have been prorated to account for the General Fund pay date shift. DHS also requires an estimated 1,015 hours of legal services per year related to the increase in critical incident report requests.

Office of the State Auditor. The bill requires the Office of the State Auditor to audit DYC's reports of recidivism rates and educational outcomes for committed youth. This increase in workload can be accomplished within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB17-1329		
Cost Components	FY 2017-18	FY 2018-19
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$9,217	\$30,756
Supplemental Employee Retirement Payments	5,780	21,054
TOTAL	\$14,997	\$51,810

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

In FY 2017-18, the bill requires an allocation of 1.2 FTE and a General Fund appropriation of \$711,632 to the Department of Human Services, \$96,476 of which must be reappropriated to the Department of Law and \$37,064 to the Office of Information Technology.

State and Local Government Contacts

Human Services
Judicial

Information Technology
State Auditor