

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING ACTIONS RELATED TO DETERMINATIONS OF COMPETENCY TO PROCEED.

Prime Sponsors: Sens. Gardner and Lambert
Reps. Lee and Young

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/26/18.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
XXX	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Department of Human Services initially indicated that the fiscal impact of this bill was indeterminate. Since the attached Fiscal Note was prepared, the Department has provided more information concerning the additional resources that will be needed to conduct competency evaluations and provide restoration education services for individuals for whom outpatient services are ordered but who remain in custody.

The Senate Judiciary Committee Report (04/30/18) consists of a "strike below" amendment, so the Report is now essentially the bill. The Report makes a number of changes to the bill. Most significantly, the Report:

- Allows the court to order an inpatient competency evaluation if "extraordinary circumstances relating to the case or the defendant make conducting the competency evaluation on an inpatient basis necessary and appropriate" [page 5, lines 17 through 19].
- Requires the Department to begin an in-custody competency evaluation no later than seven days after the receipt of a court order and collateral materials, and to complete the evaluation report no later than 45 days after the receipt of such documents unless the court extends the timeline for good cause shown [page 4, lines 6 through 13]
- Requires the court to commit the defendant to the Department for inpatient restoration services if competency has not been restored after 150 days of in-custody restoration services [page 9, lines 23 through 31]
- Adds provisions concerning competency-related training for judicial officers, district attorneys, employees of the Office of the State Public Defender, and Alternate Defense Counsel contract attorneys [Sections 8 through 11 of the bill]

Competency Evaluation and Restoration Services

The Department of Human Services requires additional resources to provide competency evaluations and restoration services for individuals who remain in custody. Specifically, the Department is estimated to require:

- \$715,576 General Fund (and 6.3 FTE) for FY 2018-19 and \$915,694 General Fund (and 8.3 FTE) for FY 2019-20 for in-custody competency evaluations [these figures include centrally appropriated costs]; and
- \$1,014,000 General Fund for FY 2018-19 and \$468,000 General Fund for FY 2019-20 for in-custody jail restoration education services.

Training

State appropriations for FY 2018-19 related to training are anticipated to total \$170,000 General Fund, including \$50,000 for the State Court Administrator's Office, \$50,000 for the Colorado District Attorneys' Council (through the Department of Law), \$50,000 for the Office of the State Public Defender, and \$20,000 for the Office of the Alternate Defense Counsel.

The following Table 1 summarizes the fiscal impact of the bill, as amended by the Report.

**Table 1
State Fiscal Impacts Under SB 18-252, as Amended by the Senate Judiciary Committee**

		FY 2018-19	FY 2019-20
Revenue		-	-
Expenditures	General Fund	\$1,769,892	\$1,212,779
	Centrally Appropriated	\$129,684	\$170,915
	Total	\$1,899,576	\$1,383,694
	Total FTE	6.3 FTE	8.3 FTE
Transfers		-	-
TABOR Refund		-	-

Legislative Council Staff agrees with this updated analysis.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$1,769,892 General Fund for FY 2018-19, including:

- \$1,599,892 to the Department of Human Services;
- \$120,000 to the Judicial Department; and
- \$50,000 to the Department of Law.

This provision also states that the appropriation is based on the assumption that the Department of Human Services will require an additional 6.3 FTE.

Points to Consider*General Fund Impact*

The Joint Budget Committee (JBC) has proposed a budget package for FY 2018-19 based on the March 2018 Office of State Planning and Budgeting revenue forecast. The JBC has included as part of its FY 2018-19 budget package a total of \$7,900,000 General Fund for appropriations required for implementation of the four bills concerning competency (S.B. 18-249, S.B. 18-250, S.B. 18-251, and S.B. 18-252).