

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING ACTIONS RELATED TO COMPETENCY TO PROCEED.

Prime Sponsors: Sens. Lee and Gardner
Reps. Weissman and Landgraf

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/17/19.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	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

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.002	Staff-prepared appropriation amendment
J.001	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation
L.006/J.003	Bill Sponsor amendment - changes fiscal impact <i>and</i> appropriation

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.002 Staff has prepared amendment **J.002** (attached) to add a provision appropriating a total of \$7,708,786 General Fund for FY 2019-20, including:

- \$5,890,794 to the Department of Human Services¹;
- \$1,767,992 to the Judicial Department; and
- \$50,000 to the Department of Law.

¹This amount is \$22,919 lower than the amount identified in the Fiscal Note because it excludes \$22,919 in centrally appropriated costs for the 3.0 FTE that will be needed by OIT for a partial year in FY 2019-20, as the FTE for this agency do not exceed the 20 FTE threshold.

This provision also appropriates \$454,539 reappropriated funds to the Governor's Office of Information Technology (OIT), and \$139,901 reappropriated funds to the Department of Law. Finally, this provision states that these appropriations are based on an assumption that additional staff will be required, including 19.0 FTE for Human Services, 5.9 FTE for Judicial², 0.8 FTE for Law, and 0.9 FTE for OIT.

J.001 Bill Sponsor amendment **J.001** (attached) adds a provision appropriating a total of \$10,983,000 General Fund to the Department of Human Services for FY 2018-19 for two types of payments anticipated to be required pursuant to the consent decree related to competency services:

- \$10,483,000 for court fines for pretrial detainees who wait for court-ordered competency services longer than the prescribed time frames from June 2019 through June 2020 (based on the Department's calculations); and
- \$500,000 for compensation of the Special Master appointed by the Court.

This amendment authorizes the Department to spend this appropriation upon passage of the bill, through June 30, 2020. Pursuant to the consent decree, any fines paid by the Department will be deposited into a trust account for the purpose of funding "non-Department mental health services". A court-appointed administrator will manage the account, and a committee consisting of representatives from the Department, Disability Law Colorado, and the Special Master will make decisions concerning payments from the account.

Amendment J.001 may be adopted in addition to any of the other amendments in this packet.

L.006 and J.003

Bill Sponsor amendment **L.006** (attached) removes language that would have expanded the role of the Court Liaisons to include case management and other functions described on page six of the Fiscal Note. Based on the information available as of the date of this analysis, this change is assumed to eliminate the need for \$1,017,422 of the General Fund appropriations to the Judicial Department for FY 2019-20 (and the associated increase of 0.5 FTE).

This amendment also adds language requiring the Department of Human Services and any behavioral health providers in the jail to work with the sheriff to ensure that the defendant is provided the correct voluntary medication while at the county jail; and requiring the Department's Office of Behavioral Health, subject to available appropriations, to require any county jail to assist in the provision of interim mental health services for individuals who have been court-ordered for inpatient competency restoration and who are waiting admission for an inpatient bed. This change increases the required General Fund appropriations to the

²This amount is 11.0 FTE lower than the amount identified in the Fiscal Note because it excludes FTE for the 11 contract court liaison positions.

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Department of Human Services by \$2,250,400 for the provision of these services in jails, starting in FY 2019-20.

Staff has prepared a companion amendment **J.003** (attached) to add a provision appropriating a total of \$8,941,764 General Fund for FY 2019-20, including:

- \$8,141,194 to the Department of Human Services;
- \$750,570 to the Judicial Department; and
- \$50,000 to the Department of Law.

This provision also appropriates \$454,539 reappropriated funds to the Governor's Office of Information Technology (OIT), and \$139,901 reappropriated funds to the Department of Law. Finally, this provision states that these appropriations are based on an assumption that additional staff will be required, including 19.0 FTE for Human Services, 5.4 FTE for Judicial, 0.8 FTE for Law, and 0.9 FTE for OIT.

If the Committee adopts L.006, it should also adopt J.003 instead of J.002.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2019-20 based on the March 2019 Legislative Council Staff revenue forecast. The budget package leaves approximately \$47.9 million General Fund unallocated. Thus, the General Assembly could appropriate up to \$44.7 million General Fund to fund 2019 legislation and maintain a 7.25 percent General Fund reserve. The JBC has included as part of the budget package \$15,400,000 General Fund for appropriations to allow the Department of Human Services to comply with the terms of the consent decree.

This bill, as amended by the Senate Judiciary Committee, requires General Fund appropriations totaling \$7,708,786 for FY 2019-20. If the Committee adopts the sponsor amendments in this packet (J.001, L.006, and J.003), the bill will include General Fund appropriations totaling \$19,924,764, including \$10,983,000 for FY 2018-19 and \$8,941,764 for FY 2019-20. Of this amount, \$15.4 million is already included as part of the budget package; the remaining \$4,524,764 would reduce the excess General Fund reserve for FY 2019-20 by \$4,852,809.