



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1017

FINAL FISCAL NOTE

Drafting Number:	LLS 20-0294	Date:	August 11, 2020
Prime Sponsors:	Rep. Herod; Kennedy Sen. Donovan; Priola	Bill Status:	Signed into Law
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Bill Topic: **SUBSTANCE USE DISORDER TREATMENT CRIMINAL JUSTICE SYSTEM**

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill makes several changes to state laws concerning substance use disorder treatment in the criminal justice system. Beginning in FY 2020-21, the bill will increase state and local government workload.

**Appropriation
Summary:** No appropriation is included.

**Fiscal Note
Status:** The fiscal note reflects the enacted bill.

Summary of Legislation

This bill makes several changes to state law concerning substance use disorder treatment in the criminal justice system, as discussed below.

Availability of opiate agonist and antagonists in correctional facilities and jails. This bill encourages the Department of Corrections (DOC), private contract prisons, local jails, multijurisdictional jails, municipal jails, and Department of Human Services (DHS) facilities to make available at least one opioid agonist and one opioid antagonist to a person in custody with an opioid use disorder throughout the duration of the person's incarceration or commitment. Qualified medication administration personnel may, in accordance with a written physician's order, administer opioid agonists and antagonists. A correctional facility or private contract prison may contract with community-based health providers to implement this section.

Safe stations. The bill allows a person to turn in any controlled substances at a safe station without being subject to arrest or prosecution. The person may also request assistance in gaining access to treatment for a substance use disorder. A safe station is defined as local law enforcement office or fire station. Safe station personnel must make a reasonable effort to determine if the individual is in need of immediate medical attention and facilitate transportation to an appropriate medical facility, if necessary. If immediate medical attention is not required, safe station personnel must provide the person with information about the behavioral health crisis response system, as developed and provided by the Office of Behavioral Health (OBH), and, if practicable, provide transportation for the person to the appropriate facility. If safe station personnel are not available to assist a person, this section does not apply.

Post-release resources. This bill requires the executive director of the DOC to consult with the DHS, the Department of Health Care Policy and Financing (HCPF), the Department of Local Affairs (DOLA), and local service providers to develop resources for inmates post-release that provide information to help prepare inmates for release and reintegration into their communities.

If a person is treated for a substance use disorder during their incarceration, the DOC and county jails must provide these post-release resources, as well as a list of available substance use providers, to the extent that OBH has made such a list available. County jails must provide Medicaid reenrollment paperwork to the person upon commitment to the county jail and file the Medicaid paperwork with the county health department upon the person's release.

Criminal record sealing. If a person has entered into or successfully completed a substance use disorder treatment program in a case that is the subject of the petition to seal, this bill requires the courts to consider this factor favorably in determining whether to grant the petition to seal.

Contracting with local governments for criminal justice diversion programs. The bill allows the OBH to contract with cities and counties for the creation, maintenance, or expansion of criminal justice diversion programs with the goal of connecting law enforcement officers with behavioral health providers to assist individuals in need of intervention or to divert individuals from the criminal justice system. The OBH may require diversion programs to participate as a mobile crisis services in the behavioral health crisis response system. Beginning November 1, 2021, the DHS is required to provide an annual update regarding the current status of funding and implementation of these programs as part of its SMART Government Act presentation. The State Board of Human Services may promulgate rules to implement this section.

State Expenditures

The bill will increase state workload and potential future costs beginning in FY 2020-21 for several state agencies, as discussed below.

Department of Corrections. If the DOC is to provide medication-assisted treatment (MAT) services to all offenders with an opioid use disorder throughout the duration of their incarceration, the DOC will require funding estimated at \$1.8 million and 16.7 FTE in implementation year one, and \$3.3 million and 35.5 FTE in implementation year two. These impacts are described in detail in the fiscal note published on March 17, 2020. The DOC will also have an increase in workload to develop post-release resources for inmates.

Department of Human Services. This bill increases workload in the OBH to provide continuity of care resources and, permissibly, to contract with local government criminal justice diversion programs.

Departments of Local Affairs and Health Care Policy and Financing. There will be an increase in workload for DOLA and HCPF to assist in the development of post-release resources. HCPF currently supports county jails around the issue of Medicaid enrollment; no change in appropriations is required.

Judicial Department. This bill adds a factor for courts to consider when defendants request their criminal cases be sealed. The department will need to amend forms to allow for a person to indicate whether they have entered into or successfully completed a substance use disorder treatment program in the case that is the subject of the petition to seal. No change in appropriations is required.

Local Government

Beginning in FY 2020-21, this bill will increase local government workload and potential future costs in several ways, as described below.

County jails. If a county jail makes available MAT services to a person in custody with an opioid use disorder throughout the duration of the person's incarceration, costs will increase. Initial estimates for El Paso and Boulder counties estimate these costs at approximately \$500,000 per year per county, but costs will vary by local jurisdiction depending on whether they opt to provide MAT services, their jail population, and current treatment practices. Workload will also increase to provide post-release resources upon a person's release.

Safe stations. Municipal police stations, county sheriff's offices, and municipal, county, and fire protection district fire stations will have increased costs and workload to operate as safe stations. Impacts include disposing of controlled substances, providing resources to individuals that request assistance, and facilitating transport to a medical facility in certain cases.

Criminal justice diversion programs. Certain local governments, including municipalities, counties, and district attorneys, will have additional costs and workload to participate in any contracts for criminal justice diversion programs with the OBH.

Effective Date

The bill was signed into law by the Governor on July 13, 2020, and takes effect on September 14, 2020, assuming no referendum petition is filed.

State and Local Government Contacts

Corrections	Counties	Fire Chiefs
Health Care Policy and Financing	Human Services	Information Technology
Judicial	Law	Local Affairs
Municipalities	Sheriffs	Special Districts