

# JOINT BUDGET COMMITTEE



## INTERIM SUPPLEMENTAL BUDGET REQUESTS FY2019-20

### DEPARTMENT OF HUMAN SERVICES (Executive Director's Office)

JBC WORKING DOCUMENT - SUBJECT TO CHANGE  
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

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## INTERIM SUPPLEMENTAL REQUEST

### DEPARTMENT OF HUMAN SERVICES, EXECUTIVE DIRECTOR'S OFFICE, RECORDS AND REPORTS OF AT-RISK ADULT ABUSE OR NEGLECT

	REQUEST	RECOMMENDATION
<b>TOTAL</b>	<b>\$139,766</b>	<b>\$139,766</b>
FTE	3.0	3.0
General Fund	(\$125,304)	(\$125,304)
Cash Funds	265,070	265,070
Federal Funds	0	0

**Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?** [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.] **YES**

**Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?** [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.] **YES**

**Explanation:** JBC staff and the Department agree that this request is the result of a technical error in calculating the original appropriation for FY 2019-20, and is the result of data that was not available when the original appropriation was determined. Without the additional spending authority, the Department could only operate the CAPS Check Unit thru the end of December 2019.

**DEPARTMENT REQUEST:** The Department of Human Services requests \$139,766 total funds, including a \$125,304 General Fund decrease, a \$265,070 increase in cash fund spending authority in the Records and Reports Fund, and 3.0 FTE in FY 2019-20 to correct annualization calculation errors, and to implement Adult Protective Services (APS) employee background check caseload that exceeds projected volume.

**STAFF RECOMMENDATION:** Staff recommends that the Committee approve the request.

**STAFF ANALYSIS:**

*Background*

The APS program offers protective services to prevent, reduce, or eliminate the current or potential risk of mistreatment or self-neglect to at-risk adults in Colorado. House Bill 17-1284 (Data System Check for Employees Serving At-risk Adults) requires certain employers to conduct record checks of the Colorado Adult Protective Services (CAPS) data system to determine if a prospective employee who will work directly with at-risk adults is the subject of a substantiated report of adult abuse or neglect. The CAPS data system tracks information on individuals who have been substantiated in an APS case of mistreatment against an at-risk adult.

As stated in Section 26-3.1-111(1), C.R.S., the intent of HB 17-1284 was “to minimize the potential for employment of persons with a history of mistreatment of at-risk adults in positions that would allow those persons unsupervised access to these adults”. As a result, as of January 1, 2019, certain employers must request a check of CAPS prior to hiring someone who will provide direct care to at-risk adults, Section 26-3.1-111(7), C.R.S. Employers may use the information received from the CAPS check in making a hiring decision, but the law does not prohibit the employer from hiring the employee. The legislation also implemented due process through the Department’s Administrative Review Division (ARD) for people substantiated in an APS case of mistreatment against an at-risk adult, which became effective on July 1, 2018.

The Records and Reports of At-Risk Adults Abuse or Neglect line item of the Long Bill includes funding for Department staff for these two key functions. The CAPS Check Unit (CCU) conducts the CAPS checks requested by employers and the Child and Adult Mistreatment Dispute Review Section (CAMDRS) under ARD manages the appeals received as part of a person’s due process rights.

*Issue*

This supplemental request is being made on an emergency basis for two primary reasons: (1) a correction is needed to address a technical error made in the calculation of the annualization costs of implementing HB 17-1284; and (2) the actual volume of CAPS records check requests received in the first six months of implementation has far exceeded initial projections upon which the appropriation was based.

First, the Department made a technical error in the annualization calculation for the Long Bill for FY 2019-20. As a result, the Records and Reports of At-Risk Adults Abuse or Neglect line item of the Long Bill does not accurately reflect the amount of spending authority that corresponds to the fiscal note for FY 2019-20. This line item of the Long Bill for FY 2019-20 includes funding and FTE figures from the fiscal note for HB 17-1284 for FY 2018-19 instead of for FY 2019-20. The CAPS records checks were implemented on January 1, 2019, so the FY 2018-19 appropriation supported a partial year of activity. The FY 2019-20 appropriation should have been annualized to support a full year of operations. This issue was not discovered until after the Long Bill had been introduced, and as a result, this line item includes \$125,304 in General Fund that should have been cash fund spending authority, inadequate cash fund spending authority, and 2.5 fewer FTE than intended. To maintain current staffing levels and maintain operations, the Department seeks to correct these annualization issues by increasing the spending authority for this line by \$99,039, and adding 2.5 FTE to the current FTE figure for FY 2019-20.

In addition, the Long Bill reflects that a portion of the funding in FY 2019-20 for this line item will consist of General Fund, when in fact, full funding for the program should come from cash funds. A mix of General Fund and cash funds were necessary in FY 2018-19 because the CAPS checks process was not operational until January 1, 2019, so funding from CAPS check fees was not available until part way through that fiscal year. General Fund was needed in FY 2018-19 to fund the start-up and initial implementation of the program. However, the CAPS check process is fully operational in FY 2019-20, so there are sufficient funds from fees to support the full cost of CAPS checks operations. As a result, the Department is requesting that \$125,304 General Fund be reduced from the line item and offset by a corresponding increase in cash funds for FY 2019-20.

Finally, the actual number of CAPS records check requests received by the Department since January 1, 2019, has significantly exceeded the projected number of CAPS requests included in the original fiscal note. As seen in the following table, 67,103 CAPS checks were actually requested from January to July 2019 compared to the initial projection totaling 25,669. Based on this actual data, the Department now estimates that actual records checks for 2019 will total 115,034, far exceeding the initial estimate of 44,000. In addition, not all required employers have registered to request the checks as of August 1, 2019, so the pace of requested checks is anticipated to increase once more employers begin conducting the checks. To meet the workload demand, the Department is requesting \$40,727 cash fund spending authority and 0.5 FTE in FY 2019-20 to hire a full-time employee in December 2019/January 2020 to ensure adequate staffing levels in the CAPS Check Unit (CCU).

Comparison of Initial Projections vs. Actual CAPS Check Requests - Calendar 2019			
	January – July	August-December	TOTAL
Initial Projections	25,669	18,331	44,000
Actual/Projected	67,103	47,931	115,034
Difference	<b>41,434</b>	<b>29,600</b>	<b>71,034</b>

Source: Department

As shown in the table below, the supplemental request includes \$139,766 total funds, including a decrease of \$125,304 General Fund and a \$265,070 increase in cash fund spending authority.

Long Bill Appropriation and Requested Funding for FY 2019-20			
	Total Funds	General Fund	Cash Funds
Long Bill	\$214,806	\$125,304	\$89,502
Supplemental Request	139,766	(125,304)	265,070
Total Request FY 2019-20	\$354,572	\$0	\$354,572

#### *CAPS Check Fee Revenues*

Employers required to conduct background checks on new employees are required to pay a CAPS check fee of \$16.50 per check, which consists of a \$15.50 fee and a \$1.00 online processing charge. While the employer must pay the CAPS check fee at the time of the request, the employer may require the employee to pay the fee. CAPS check fee revenues deposited into the Records and Reports Fund totaled \$640,776 in the first 5 months of implementation of the new law. The Department estimates that fee revenues will generate \$1.5 million in Calendar Year 2019. These revenues are sufficient to support the Department’s requested increase in spending authority. The Department is monitoring revenue levels in the Records and Reports Fund and will consider reducing the CAPS check fee if fee revenues exceed the amount needed to support the APS due process program and CAPS checks processes.

#### *Staff Recommendation*

Staff recommends the Committee approve the Department’s request. The overexpenditure submitted to the Controller totals \$265,070 in cash fund spending authority from the Records and Reports Fund. Please note, the 3.0 FTE increase consists of 2.5 FTE to maintain current staffing levels and correct the annualization error, and 0.5 FTE to hire a full-time employee in the CAPS Check Unit. This position would be filled in the middle of the current year.