



**Colorado
Legislative
Council
Staff**

Bill 3

FISCAL NOTE

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

Drafting Number: LLS 18-0278
Prime Sponsor(s):

Date: October 30, 2017
Bill Status: Oversight Committee for the Treatment of Persons with Mental Health Disorders in the Criminal Justice System Bill Request

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BILL TOPIC: RESTORATION TO COMPETENCY SERVICES IN JAIL

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue		
State Expenditures	<u>\$202,801</u>	<u>\$243,248</u>
General Fund	202,801	243,248
Appropriation Required: \$202,801 - Department of Human Services (FY2018-19).		
Future Year Impacts: Ongoing state and local workload and expenditure increases.		

Summary of Legislation

This bill, ***requested by the Oversight Committee for the Treatment of Persons with Mental Health Disorders in the Criminal Justice System***, requires a court that is determining the place where competency restoration services are to be provided to give priority to the place where the defendant is in custody at the time of the determination, when clinically appropriate. If a determination is made to provide competency restoration in a jail, the Department of Human Services (DHS) will provide competency education services.

Background

When the issue of fitness for trial (competency) is raised in a criminal trial, Colorado law requires the court to order a competency exam. If a defendant is found incompetent to proceed, the court will order outpatient or inpatient services. The vast majority of inpatient services are accessed through the Colorado Mental Health Institute at Pueblo (CMHIP) and the Restoring Individuals Safely and Effectively (RISE) Program in Arapahoe County, both run by DHS.

Colorado law prohibits confinement for purposes of competency restoration from exceeding the maximum term of confinement that could be imposed for the offenses with which the defendant is charged. It further requires that the court review a defendant's status at least once every three months.

State Expenditures

This bill will increase General Fund expenditures in DHS by **\$202,801 in FY 2018-19 and \$243,248 in FY 2019-20**, as shown in Table 1 and explained below.

Cost Components	FY 2018-19	FY 2019-20
Contract Personal Services	\$121,740	\$162,320
Contractor Operating Expenses and Capital Outlay Costs	21,662	3,800
Contract Employee Fringe Benefits	30,000	40,000
Contractor Vehicle Mileage	5,400	5,400
Contractor Administration	23,999	31,728
TOTAL	\$202,801	\$243,248

Assumptions. The fiscal note assumes that approximately 30 defendants per year will be deemed appropriate to receive competency restoration services in jails (other than Arapahoe County where the RISE Program is located) and the length of stay will range from 84 to 132 days. Also, due to the effective date of the bill, the fiscal note assumes the required contract restoration services providers will be hired and begin work by September 1, 2018.

Department of Human Services. The DHS will have costs of \$202,801 in FY 2018-19 and 243,248 in FY 2019-20 to contract for competency education services. These costs include contractor salary, operating expenses, benefits, vehicle mileage, and administrative expenses. These costs are paid from the General Fund. The fiscal note assumes that the department will contract with four behavioral health professionals to provide competency education services to defendants in jails across the state on an as needed basis. Because the defendants in question experience complex mental health and cognitive challenges, a relatively high case manager to patient ratio is needed to ensure individual patient and public safety. The case managers are expected to meet individually with the defendants multiple times per week during the restoration period to help navigate through the system and coordinate treatment.

Judicial Branch. Under current law, the executive director of DHS has the authority to determine where restoration services will be provided for a defendant who is incompetent to proceed with trial. The bill would require a court to make this determination. Such a determination will come about following a hearing, requiring a minimal workload increase in the trial courts that will be addressed using current appropriations.

Local Government Impact

This bill has the potential to increase costs for county jails where defendants are housed pending a restoration to competency. As stated above, the fiscal note assumes that approximately 30 defendants per year will be deemed appropriate to receive restoration services in jails rather than in CMHIP or the RISE Program. The Jefferson County Sheriff's Office estimates that the bill would increase expenditures by at least \$270,000 per year, given already crowded conditions and a lack of adequate manpower. Other jails could see similar cost increases for housing.

Additionally, county jails are required to provide adequate medical and mental health care services to inmates. Any costs for clinical restoration care that are over and above what is currently provided will be borne by the counties.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

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