



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

**Drafting Number:** LLS 22-0142  
**Prime Sponsors:**

**Date:** October 22, 2021  
**Bill Status:** Bill Request  
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**Bill Topic:** **PRETRIAL DIVERSION FOR PERSON WITH BEHAVIORAL HEALTH**

**Summary of Fiscal Impact:**

- |   |  |
|---|--|
| <input checked="" 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 expands the existing adult pretrial diversion program to include behavioral health diversion programs. This may decrease state and local workload and revenue on an ongoing basis.

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

**Fiscal Note Status:** The fiscal note reflects the bill draft requested by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems.

## Summary of Legislation

This bill expands the scope of the adult diversion program to identify individuals with behavioral health disorders in order to divert them from the criminal justice system and into community treatment programs. District attorney offices that use state money for a diversion program must consider whether a defendant has a mental health or other behavioral health disorder that may make them eligible for the program, and diversion agreements may include participation in treatment programs.

## Background

The Mental Health Diversion Program, a pilot program, was created by Senate Bill 18-249 with an appropriation of \$750,000 General Fund. It began operating in 2019 in the 6th (Archuleta, La Plata, and San Juan counties); 8th (Jackson and Larimer counties); 16th (Bent, Crowley, and Otero counties), and 20th (Boulder County) Judicial Districts. According to data from the Judicial Department, there were 88 program participants in the four pilot sites between January 2019 through June 2020. House Bill 20-1393 allowed for the expansion of the pilot program to five or more judicial districts to increase participation so that the General Assembly may conduct a valid assessment on whether the pilot program should continue; however, no funding was appropriated to the program. The Judicial

Department is submitting a decision item (R-10) to seek approximately \$2 million in funding for adult diversion programs in order to allow the Mental Health Diversion Program to sunset and be absorbed within the adult diversion program. The pilot program is scheduled to repeal on July 1, 2022.

## **State Revenue**

Beginning in FY 2022-23, the bill may reduce state revenue from court-imposed fees and fines credited to the Judicial Department if more individuals are diverted into community-based treatment rather than being convicted of criminal offenses. Since the courts have sentencing discretion, and it is unknown how many additional offenders will be diverted, the precise impact to state revenue cannot be determined, but is expected to be minimal.

## **State Expenditures**

Beginning in FY 2022-23, this bill may decrease workload for the trial courts and probation division within the Judicial Department if more individuals are diverted to treatment programs rather than being convicted of criminal offenses. No change in appropriations is required.

**TABOR refunds.** The bill is expected to minimally decrease the amount of state revenue required to be refunded to taxpayers. These amounts have not been estimated. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24.

## **Local Government**

Similar to the state, revenue and workload may decrease to affected agencies, as described below.

**District attorneys.** In participating judicial districts, this bill may increase district attorney workload to handle more diversion cases; however, these costs are expected to be paid by the state.

**Denver County Court.** For misdemeanor and petty offenses committed in Denver, criminal fine and court fee revenue is collected by Denver County Court. To the extent that this bill results in more individuals diverted out of the criminal justice system, revenue and workload will decrease.

**County jails.** This bill may result in fewer individuals being convicted of offenses and sentenced to a term of incarceration in county jail.

## **Effective Date**

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

**State and Local Government Contacts**

District Attorneys

Judicial