



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-149: PATHWAYS FOR INDIVIDUALS WITH MENTAL HLTH DISORDER

Prime Sponsors:

Sen. Amabile; Simpson
Rep. Caldwell; McCluskie

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Fiscal note status: This revised fiscal note reflects the reengrossed bill, as amended by the House Judiciary Committee and House Appropriations Committee. This analysis is ongoing, and may be updated if additional information is received.

Summary Information

Overview. This bill modifies Colorado’s statutory framework governing competency to proceed in criminal cases and establishes new processes to transition certain defendants from the criminal justice system to appropriate civil systems when criminal prosecution is no longer the most appropriate setting.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

Appropriations. The bill requires and includes an appropriation of \$4.1 million to the Department of Human Services in the current FY 2025-26. It also requires an appropriation of \$26.0 million to multiple state agencies in FY 2026-27.

Table 1
State Fiscal Impacts

| Type of Impact | Current Year FY 2025-26 | Budget Year FY 2026-27 | Out Year 1 FY 2027-28 | Out Year 2 FY 2028-29 | Out Year 3 FY 2029-30 |
|-------------------------|----------------------------|---------------------------|--------------------------|--------------------------|--------------------------|
| State Revenue | \$0 | \$0 | \$0 | \$0 | \$0 |
| State Expenditures | \$4,113,832 | \$26,671,729 | \$31,079,654 | \$42,725,551 | \$57,154,915 |
| Transferred Funds | \$3,577,898 | \$0 | \$0 | \$0 | \$0 |
| Change in TABOR Refunds | \$0 | \$0 | \$0 | \$0 | \$0 |
| Change in State FTE | 0.0 FTE | 89.6 FTE | 154.0 FTE | 176.5 FTE | 178.5 FTE |

Fund sources for these impacts are shown in the tables below. Expenditures are expected to continue to increase through FY 2032-33, at which point the incoming population is expected to balance with the population released each year.

**Table 1A
 State Expenditures**

| Fund Source | Current Year FY 2025-26 | Budget Year FY 2026-27 | Out Year 1 FY 2027-28 | Out Year 2 FY 2028-29 | Out Year 3 FY 2029-30 |
|---------------------------|------------------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | \$535,934 | \$25,141,518 | \$26,517,305 | \$36,501,789 | \$50,959,083 |
| Cash Funds | \$3,577,898 | \$26,296 | \$0 | \$0 | \$0 |
| Federal Funds | \$0 | \$842,807 | \$3,791,197 | \$5,431,041 | \$5,381,541 |
| Centrally Appropriated | \$0 | \$661,108 | \$771,152 | \$792,722 | \$814,291 |
| Total Expenditures | \$4,113,832 | \$26,671,729 | \$31,079,654 | \$42,725,551 | \$57,154,915 |
| Total FTE | 0.0 FTE | 89.6 FTE | 154.0 FTE | 176.5 FTE | 178.5 FTE |

**Table 1B
 State Transfers**

| Fund Source | Current Year FY 2025-26 | Budget Year FY 2026-27 | Out Year 1 FY 2027-28 | Out Year 2 FY 2028-29 | Out Year 3 FY 2029-30 |
|---------------------|------------------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | -\$3,577,898 | \$0 | \$0 | \$0 | \$0 |
| Capital Const. Fund | \$3,577,898 | \$0 | \$0 | \$0 | \$0 |
| Net Transfer | \$0 | \$0 | \$0 | \$0 | \$0 |

Summary of Legislation

This bill modifies involuntary treatment processes in two main areas. For individuals found incompetent to proceed in criminal cases, it creates two new civil placements: civil commitments (for individuals with mental health disorders) and enhanced protective placement (for individuals with intellectual and developmental disabilities [IDD] or neurocognitive disorders). For those in involuntary treatment outside the criminal system, it removes the requirement for an emergency mental health hold (M1 hold) before certification and adds a new short-term and long-term protective placement for individuals with neurocognitive disorder that meet certain criteria. Additional details are provided in the summary below.

Incompetent to Proceed Pathways

The bill makes several changes to the incompetency to proceed system to create new pathways to civilly commit a defendant to treatment. This includes changes to in-custody evaluations, dismissing of criminal charges, creating restorability hearings, and creating civil commitment and enhanced protective placements, as described below.

In-Custody Evaluations

Under current law, the CDHS must begin an in-custody competency evaluation as soon as practical and has 21 days to complete it. Under the bill, the CDHS must begin the evaluation as

soon as practical but no later than 21 days, and the deadline to complete the evaluation is removed. CDHS is required to provide additional information on community-based restoration services and whether the defendant meets placement criteria.

Restorability Hearing

The bill establishes “restorability hearings” as a new type of hearing in the incompetent to proceed process. The hearing may be combined with other hearings—such as a competency hearing or restoration hearing—and is to determine whether or not the defendant is restorable.

The court may set a restorability hearing when:

- a defendant is incompetent to proceed and a competency evaluator opines that the defendant is unrestorable and a restorability hearing has not been held or 182 days have passed since the defendant began receiving restoration services; or
- a court receives a competency evaluator’s opinion that the defendant is unrestorable prior to an initial order for restoration services.

During the hearing, the defendant has the burden of proof that they are unrestorable if the defendant is charged with a Victim’s Right Act (VRA) crime, unlawful sexual conduct, or indecent exposure. Otherwise, the prosecution has the burden of proof to show the defendant is restorable.

If the court finds the defendant unrestorable, the court must dismiss criminal proceedings pending a ruling on if the defendant should be certified for care through the civil system and must appoint a Bridges court liaison, unless the court finds there is an acceptable care coordination alternative in place, and must appoint an emergency guardian when appropriate. If the court finds the defendant restorable, the court must order appropriate restoration services.

Initiating Civil Proceedings

Under current law, a party to the case may request to initiate a petition for certification for short-term treatment if the defendant is found incompetent to proceed. A court may only order a certification for short-term treatment if it receives a request, the defendant meets the standard for certification, and the defendant’s highest charge is a petty offense, traffic offense, or misdemeanor offense, or with agreement of the prosecuting attorney regardless of the charge. In addition, a court may stay the dismissal of charges to seek certification for dismissal due to the classification of the crime or reaching the time limit (see below).

Under the bill, when a court seeks short-term certification for a defendant found incompetent to proceed, the bill allows civil proceedings to occur during the criminal proceedings.

If the court initiates civil proceedings, it must appoint a Bridges court liaison and may appoint an emergency guardian for the defendant. The bill allows the court to order a county attorney or an appointed emergency guardian to initiate civil proceedings. If a petition for civil proceeding

is filed while criminal proceedings are ongoing, the bill requires CDHS to provide care coordination.

The bill allows the court to grant an unlimited number of 35-day extensions to stay orders for dismissing the criminal case unless the defendant does not consent and certain conditions apply.

Short-Term and Long-Term Certification for Incompetent to Proceed

Under current law, when a criminal court transfers proceedings to a civil court, the civil court may certify a person for short-term treatment for not more than three months if:

- the person is a respondent who was found incompetent to proceed;
- a criminal court referred the matter to a civil court for certification;
- the person has not accepted voluntary treatment;
- the facility or provider has been designated to provide such treatment; and
- the person, their legal guardian, and their lay person, has been advised of their right to an attorney and to contest the certification.

The bill requires the court to certify a person if those conditions are met, with some modifications. Specifically, the bill removes the requirement that a facility or provider be designated and instead adds the following additional criteria for certification:

- the person has a persistent mental health disorder; or
- the person has a mental health disorder and is unwilling or unable to comply with voluntary treatment and the person is a danger to the person's self, others, or gravely disabled.

The bill requires the court to order the CDHS to provide care coordination for a respondent unless an appropriate provider has already been identified and is willing to hold the certification. The bill also allows the court to order outpatient care even if the court finds that inpatient treatment is necessary if an inpatient care provider has not been located.

Civil Commitment and Enhanced Protective Placement

The bill creates two new placements for defendants found incompetent to proceed: civil commitment and enhanced protective placement.

Court Process

The prosecution may seek civil commitment or enhanced protective placement if the defendant is unrestorable or the defendant has reached the maximum time permitted to restore the defendant and the defendant:

- has a mental disability or developmental disability;
- is alleged to have committed or was charged in a criminal case in Colorado in which competency was raised that would constitute homicide, a crime of violence, or a felony that constitutes unlawful sexual behavior; and
- poses a substantial risk of serious harm to others.

If the court receives a request, the court must stay the dismissal of the defendant's case, set a trial within 91 days, and order CDHS to identify an appropriate provider and placement in the event of civil commitment or enhanced placement. The trial must be civil in nature and the prosecution must prove by clear and convincing evidence that the defendant meets the criteria listed above. The defendant may request to stipulate that the court order civil commitment or an enhanced protective placement rather than contesting the matter.

If the prosecution does not meet its burden of proof, the court must deny the prosecution's request and dismiss the criminal case. The court may still consider ordering other civil proceedings. If the prosecution meets its burden, the court must order a civil commitment or an enhanced placement. When ordering the placement, if CDHS proposes placing the defendant into inpatient care, the court must order inpatient care without further review. If the CDHS identifies an appropriate provider who does not meet the definition of inpatient, the court must set a review hearing as soon as practicable. The bill outlines additional factors the courts must consider when placing a defendant. After transporting the defendant to their placement, the court must dismiss the criminal case, but district attorneys may refile charges if the district attorney has reason to believe the defendant has attained competency.

Civil Commitment

When a criminal case is transferred to a civil court due to an individual qualifying for civil commitment, the court must notify the county attorney, appoint an attorney to represent the respondent, and set a review hearing and order the respondent before the court. During the civil commitment, the court:

- may modify any court order;
- issue a warrant for the respondent's arrest if the respondent has not complied with an order;
- order the CDHS to provide an updated opinion if the individual meets the criteria to terminate civil commitment; and
- review the respondent's placement.

The court must ensure that the respondent is placed in the least restrictive placement adequate to protect victims and the community and provide the appropriate level of care.

If the court orders the respondent to be placed into inpatient care at the discretion of CDHS, the CDHS must designate the state facility at which the respondent is held and may transfer the respondent between facilities. The CDHS must ensure the respondent is placed in the least restrictive placement and not place the respondent in a community-based setting as an initial placement after being civilly committed without prior approval of the court. The care provider must report to the court annually on the status of the defendant. Finally, the court may order an examination to determine if the respondent may be converted to an enhanced protective placement, certification for short-term treatment, or termination. Civil commitment orders may be appealed.

Enhanced Protective Placement

The bill creates new placement type—enhanced protective placements—for defendants with a neurocognitive disorder or intellectual or developmental disability, managed by HCPF. Enhanced protective placements follow the same process as civil commitments, except placements are ordered within HCPF instead of CDHS.

Termination

The court must terminate a civil commitment or enhanced protective placement if the respondent is no longer a substantial risk of serious harm to others or does not have a mental health disorder, neurocognitive disorder, or intellectual and developmental disability that causes them to be a danger to themselves or others and the respondent has demonstrated sufficient capacity and willingness to conform the respondent's conduct to the requirement of the law. If the court finds the respondent does not meet the criteria for termination, the respondent is not entitled to another termination within one year.

The respondent may request termination in writing at any time, unless they have requested termination within the last year. The court must deny the request unless the request includes a professional opinion that the respondent meets the criteria for termination. If the court does not object, the district or county attorney have 14 days to object to the termination. If they object, they must have an opportunity to conduct an independent evaluation and the defendant has a right to a trial to determine if termination can occur.

Dismissal of Charges

Under current law, when a defendant is found incompetent to proceed, charges must be dismissed if the defendant's highest charge is a class 2 misdemeanor, if the time limit for restorability is hit and the defendant is still incompetent, or if the court finds it is unlikely that a defendant can be restored. The bill makes changes to the dismissal of charges based on the crime classification and the time limit, as described below.

Dismissing Charges Based on Crime Classification

Under current law, if the court finds a defendant incompetent to proceed and the defendant's highest offense is a class 2 misdemeanor, petty offense, a drug misdemeanor, or a traffic offense, the court must dismiss the charges unless the district attorney objects because the defendant is a danger to their self or others or is gravely disabled and there is a reasonable belief that the defendant will be certified for treatment through the civil system.

The bill first clarifies that "traffic offenses" include traffic infractions and misdemeanor traffic offenses, but does not include driving under the influence offenses or careless driving offenses. Also, the bill adds unclassified misdemeanors to the list of offenses that require dismissal.

Finally, the bill removes the option for a district attorney to object to the dismissal of charges, thereby requiring the court to dismiss the case when the highest charge is a:

- class 2 misdemeanor;
- petty offense;
- drug misdemeanor;
- traffic infraction or misdemeanor (excluding driving under the influence or careless driving);
and
- unclassified misdemeanor.

Dismissal Upon a Time Limit

Current law establishes time limits on how long a defendant charged with a non-crime of violence or sex offence can receive restoration services without being restored to competency. This time limit includes:

- 6 months if the defendant's highest charge is a class 1 misdemeanor, or a level 4 drug felony;
- 1 year if the defendant's highest charge is a class 5 or 6 felony or level 3 drug felony;
- 2 years if the defendant's highest charge is a class 4 felony.

Current law allows the court to determine if the individual meets the standard for certification for short-term treatment before dismissing the case.

The bill adds a first offense for careless driving to the 6-month time limit, and a second offence for careless driving or driving under the influence to the 1-year time limit.

Dismissal After Stays Lifted

After all applicable stays are lifted, and the court dismisses the charges, the bill allows the court to order a Bridges court liaison to assist with the defendant's case management planning and coordination of services, and the court must require the CDHS to ensure case management services and supports are made available to the defendant.

The Civil Pathway

The bill makes several changes to the civil process for involuntary treatment including changes to M1 holds, certification for treatment, and creating a new placement for individuals with neurocognitive disorders.

Emergency Hold and Short-Term Certification

Under current law, an M1 hold may be invoked when a person petitions a court requesting an evaluation of the resolution of the respondent's condition and alleging that the respondent has a mental health disorder and is a danger to themselves or others or appears to be gravely disabled.

The bill allows a person to petition the court when a person has a persistent mental health disorder, which the bill defines as a person who has a mental health disorder and:

- has at least three M1 holds, certification for treatment, or periods of incompetency in a criminal case within three years;
- there is a substantial probability the mental health disorder will result in additional M1 holds, certification for treatment, or periods of incompetency within the next year; and
- the disorder substantially impairs the person's capacity to make an informed treatment decision.

In addition, the bill allows a person who is lawfully confined for a criminal charge in a county jail and is need of a M1 hold, to be cared for and evaluated in a secure placement or in the person's place of confinement while the person is lawfully detained. If the person is released from confinement and is still under a M1 hold, the person or entity responsible for the person's confinement must coordinate with the Behavioral Health Administration (BHA) to transfer the person to an appropriate facility.

Short-Term and Long-Term Certification

Under current law, a court may certify a person for short-term treatment for not more than three months if:

- the person has a mental health disorder and is a danger to the person's self or others or is gravely disabled;
- the person has not accepted voluntary treatment;
- the facility or provider has been designated to provide such treatment; and
- the person, their legal guardian, and their lay person, has been advised of their right to an attorney and to contest the certification.

The bill adds a person having a persistent mental health disorder to the criteria to qualify for certification.

The bill also creates an outpatient short-term certification. Once the BHA receives the notice of outpatient certification, the BHA must provide care coordination to designate a provider. The bill outlines other requirements such as when a court hearing is required.

Termination from Certification

Under current law, certification terminates when the professional person in charge of treatment and the BHA determine that the respondent has received sufficient benefit from the treatment to end involuntary treatment. The bill changes this criterion to when the professional person in charge of treatment and the BHA, after a reasonable observation and treatment period, determine the respondent no longer meets the criteria for certification, and two independent evaluators agree.

Protective Placement

The bill creates new placement type—protective placements—for individuals what have a neurocognitive disorder, are unwilling or unable to comply with voluntary treatment, are a danger to themselves or others, and is exiting from involvement in the criminal justice system. These placements are managed by HCPF. Protective placements follow the same process as certification for involuntary treatment for a mental health disorder.

When a respondent is ordered to treatment, unless an appropriate provider has already been identified, HCPF is responsible for finding an appropriate provider and placement. If a provider hasn't already been identified, the court must order HCPF to provide care coordination and make efforts to find a provider.

The bill allows HCPF to make additional payments to nursing and regional center providers to achieve least restrictive placement, within available appropriations and federal approval. Finally, the bill requires HCPF to continuously evaluate and explore options to enhance the delivery of services for individuals with serious mental illness.

Inability to pay

The bill provides the right of a person to not be denied an evaluation or treatment due to inability to pay.

Report

The bill requires the BHA to report on how many individuals who met the criteria for short-term certification.

Care Coordination Care when Terminated

When a person is terminated from certification, civil commitment, or enhanced protective placement, the bill requires the BHA to provide care coordination services.

County Attorney and District Attorney Responsibilities

The bill details the responsibilities of county attorney or a district attorney in a county less than 50,000 people in petitioning for the various types of involuntary treatment. Responsibilities include:

- filing and appearing on behalf of the county or state for cases transferred from criminal court;
- assisting a nonprofessional trying to initiate a request for an evaluation for M1 hold;
- exercising due diligence in gathering information for use in proceedings; and
- sharing and providing information about proceedings to interested parties.

The bill also requires the General Assembly to appropriate \$150,000 to train district attorneys on issues related to competency to proceed and the pathways created in this bill.

Increased Provider Payments

Subject to available appropriations and federal authorization, HCPF may increase payments to nursing facility providers and regional center providers for the purpose of achieving the least restrictive placement requirement for individuals subject to a protective placement.

Repeal Date

By January 2031, the CDHS is required to include information about protective placements, enhanced protective placements, and civil commitments during its SMART Act hearing and on its website, and receive data from HCPF and the Judicial Department as necessary. These placement types repeal on July 1, 2031.

Transfer to the Capital Construction Fund

The bill requires the State Controller to transfer \$3,577,898 from the General Fund to the Capital Construction Fund three days after the bill's effective date.

Electronic Filing of Evaluations

The bill requires courts to issue orders, notifications, and reports on competency evaluations by electronic means.

Over-Expenditure Authority

The bill permits CDHS over-expenditure for civil commitments, protective placements, and enhanced protective placements in the department's facilities. To have over-expenditure funding approved, the request must be submitted to and approved by the Governor's Office of State Planning and Budgeting, and a majority of Joint Budget Committee members within two weeks of the OSPB approval. The JBC must notify the District Attorneys' Council and the Office of the State Public Defender of the outcome. If the request for overexpenditure is not approved, the CDHS must convene a meeting with relevant stakeholders.

Mandated Costs

The bill requires the state to pay the costs of civil commitment and enhanced protective placement trials, the costs of initiating a short-term certification, and the costs of an independent examination and termination hearing including any transcripts.

Background

Incompetent to Proceed

When an individual is charged with a crime, they have the right to aid in their own defense. If an individual is not able to exercise this right, the individual is considered incompetent to proceed and the criminal trial is paused until the defendant is restored to competency or the charges are dismissed. The standard for determining if an individual is competent is based on the U.S. Supreme Court's ruling that a defendant must be rationally able to consult with an attorney and hold a clear understanding of the charges against them.

In Colorado, when the issue of competency is raised, the courts will pause criminal proceedings to hold a hearing to determine competency. To determine competency, the court, or parties to a case, may request an evaluation by the Colorado Department of Human Services (CDHS), which evaluates the defendant and provides an opinion on whether the defendant is incompetent to proceed. The court then uses that opinion and other available information to make a determination if the defendant is competent to proceed. If the defendant is found to be competent, criminal proceedings resume. If the defendant is found to be incompetent, the court may order restoration services, order that a party initiate short-term certification (in certain circumstances), or dismiss the charges (in certain circumstances). If restoration services are ordered, the court will hold regular hearings to determine whether the defendant has been restored to competency until the statutory limit is reached or the court finds that there is not a substantial probability that the defendant will be restored to competency within the reasonably foreseeable future. If the latter circumstances exist, the court will dismiss the charges.

Certification for Involuntary Treatment

In Colorado, an individual can be certified for involuntary treatment if the individual is an imminent danger to themselves or others or is gravely disabled. If a qualified professional believes a person meets this definition, the professional may request assistance to detain and transport the person to an emergency facility for 72-hour treatment (also called an M1 hold). If, after an M1 hold, it is determined that the person is a danger to themselves or others or is gravely disabled as a result of a mental health disorder, the individual may be certified for up to 3 months for short-term treatment. If the individual still meets the requirements for certification and the time limit for short-term certification is expiring, a person may be certified for long-term certification.

Assumptions

Civil Commitment and Enhanced Protective Placement Population

It is difficult to assess how many individuals would qualify for civil commitment placements or enhanced protective placements as a result of the bill.

According to the Judicial Department, there are an average of 2,457 criminal cases where competency is raised per year. Of those, an average of 444 cases involve a defendant who has been found incompetent to proceed, has not been restored, and is charged with one of the offenses listed in the bill. The Judicial Department estimates that 50 percent of these cases, or 222 cases, would qualify for a placement.

CDHS conducted an analysis of every defendant who was determined to be unrestorable whose charges include a crime of violence or felony unlawful sexual behavior over a four-year period (January 2022 through December 2025). The analysis found that an average of 61 individuals per year meet placement criteria. Based on available diagnosis information, 31 individuals (50 percent) required mental health beds, 17 individuals required IDD beds (28 percent), and 13 individuals (22 percent) required beds that support individuals with neurocognitive disorders.

The Colorado District Attorneys' Council conducted a survey of district attorney offices to estimate how many cases would seek these placements. Respondents estimated 25 to 45 individuals per year would qualify.

Based on this information, the fiscal note estimates that there will be 56 cases per year where a civil commitment or enhanced protection placement will be sought, of which 20 percent, or 11 cases will stipulate to the placement and not commence to a trial. Assuming 80 percent of cases require a placement, it is estimated that 46 individuals per year will be placed in a civil commitment or enhanced protection placement. Using the CDHS' diagnosis data, of these 46 placements, it is assumed that 23 require a mental health bed, 13 require an IDD bed, and 10 require a neurocognitive bed.

Civil Certification Population

According to the Judicial Department, there are 6,246 short-term certification cases and 120 long-term certification cases per year.

Protective Placement

The bill establishes a new type of civil certification called protective placement, for individuals exiting the criminal justice system. The fiscal note estimates that around 16 percent of incompetent to proceed cases will involve an individual who would qualify for a placement resulting in about 300 cases per year.

Other Assumptions

Additional agency-specific assumptions are provided in the sections below.

State Transfer

In the current FY 2025-26, the bill includes a transfer of \$3,577,898 from the General Fund to the Capital Construction Fund.

State Expenditures

The bill increases state expenditures by \$4.1 million in the current FY 2025-26, \$26.7 million in FY 2026-27, \$31.1 million in FY 2027-28, and increasing amounts through approximately FY 2032-33, when costs are projected to level off at around \$73.5 million per year. Most of these costs are paid from the General Fund, with a portion of Medicaid-eligible expenses paid using a mix of General Fund and federal funds. These costs will be incurred in eight agencies, as described in the sections below.

**Table 2
 State Expenditures
 All Departments**

| Department | Current Year FY 2025-26 | Budget Year FY 2026-27 | Out Year 1 FY 2027-28 | Out Year 2 FY 2028-29 | Out Year 3 FY 2029-30 |
|--------------------|------------------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| CDHS | \$4,113,832 | \$18,369,042 | \$22,962,134 | \$34,500,679 | \$48,822,691 |
| Judicial | \$0 | \$3,983,278 | \$2,975,227 | \$2,975,227 | \$2,975,227 |
| BHA | \$0 | \$414,477 | \$314,645 | \$314,645 | \$314,645 |
| OSPD | \$0 | \$752,377 | \$724,377 | \$724,377 | \$724,377 |
| Bridges | \$0 | \$412,077 | \$1,318,440 | \$1,318,440 | \$1,318,440 |
| HCPF | \$0 | \$1,751,693 | \$1,730,693 | \$1,730,693 | \$1,730,693 |
| OADC | \$0 | \$206,345 | \$206,345 | \$206,345 | \$206,345 |
| OPG | \$0 | \$632,440 | \$697,792 | \$805,145 | \$912,497 |
| Law | \$0 | \$150,000 | \$150,000 | \$150,000 | \$150,000 |
| Total Costs | \$4,113,832 | \$26,671,729 | \$31,079,654 | \$42,725,551 | \$57,154,915 |

Department of Human Services

The bill increases expenditures in the CDHS to construct or contract for additional beds, hire additional staff, and to make information technology (IT) modifications, as described below. Costs are summarized in Table 3 below. Costs are paid primarily from the General Fund, with a portion of costs paid using money reappropriated from HCPF to serve Medicaid-eligible individuals.

**Table 3
 State Expenditures
 Department of Human Services**

| Cost Component | Current Yr. FY 2025-26 | Budget Year FY 2026-27 | Out Year 1 FY 2027-28 | Out Year 2 FY 2028-29 | Out Year 3 FY 2029-30 |
|---------------------------|-----------------------------------|-----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Personal Services | \$0 | \$4,533,401 | \$8,637,373 | \$10,098,291 | \$10,141,206 |
| Operating Expenses | \$0 | \$87,848 | \$236,192 | \$289,512 | \$290,792 |
| Capital Outlay Costs | \$0 | \$402,000 | \$302,000 | \$110,000 | \$7,000 |
| Contract Staff | \$0 | \$918,653 | \$1,864,031 | \$2,250,375 | \$2,850,375 |
| Bed Construction Costs | \$4,113,832 | \$0 | \$0 | \$0 | \$0 |
| Bed Operating Costs | \$0 | \$744,000 | \$860,000 | \$860,000 | \$860,000 |
| Contract Beds (All Types) | \$0 | \$10,002,825 | \$8,309,225 | \$17,691,550 | \$31,453,875 |
| IT Modification | \$0 | \$130,000 | \$30,000 | \$30,000 | \$30,000 |
| Legal Services | \$0 | \$242,323 | \$159,241 | \$159,241 | \$159,241 |
| All Employee Insurance | \$0 | \$907,161 | \$1,800,380 | \$2,118,847 | \$2,133,544 |
| Supplemental PERA | \$0 | \$400,831 | \$763,693 | \$892,864 | \$896,658 |
| FTE – Personal Services | 0.0 FTE | 60.1 FTE | 120.4 FTE | 141.9 FTE | 142.9 FTE |
| FTE – Legal Services | 0.0 FTE | 1.0 FTE | 0.6 FTE | 0.6 FTE | 0.6 FTE |
| Total Costs | \$4,113,832 | \$18,369,042 | \$22,962,134 | \$34,500,679 | \$48,822,691 |
| Total FTE | 0.0 FTE | 61.1 FTE | 121.0 FTE | 142.5 FTE | 143.5 FTE |

Funding for contract beds and related costs is partially offset with federal Medicaid funding.

Estimated Beds Required

Starting in the current FY 2025-26, the bill increases state expenditures to provide beds for the assumed 46 placements per year. The fiscal note assumes 38 percent of cases involve a class 1 felony (F1) to class 3 felony (F3) charge and the remaining 62 percent of cases will have a lower charge. It is also assumed that 20 percent of those with F1 to F3 charges and 40 percent with lower charges will be diverted from beds and not placed within a CDHS hospital.

Using the current length of stay for persons found not guilty by reason of insanity, it is assumed that F1 to F3 charges will stay in a placement for 7 years and lower charges for 4 years. Table 3A outlines the total bed need based on these assumptions.

Available Beds and Projected Increased Bed Capacity

It is assumed that 37 mental health beds are available in FY 2026-27 at Colorado Mental Health Hospital in Pueblo (CMHHIP). Further, it is assumed that an additional 38 IDD beds will be built or renovated at CDHS facilities, with these beds coming online over three years starting in FY 2026-27. For neurocognitive beds, it is assumed that CDHS will contract for 10 beds at skilled nursing facilities in FY 2026-27. Table 3B outlines assumed number of beds available by year,

and Table 3C shows the total shortfall in available beds that will result in the need for CDHS to contract for additional beds. The timeline and costs for bringing additional beds online is described in more detail below.

Table 3A
Estimated Total Bed Need Under SB 26-149

| Fiscal Year | Mental Health Beds Required | IDD Beds Required | Neuro Beds Required | Total Beds Required |
|--------------------|------------------------------------|--------------------------|----------------------------|----------------------------|
| FY 2026-27 | 16 | 9 | 7 | 32 |
| FY 2027-28 | 32 | 18 | 14 | 64 |
| FY 2028-29 | 48 | 27 | 21 | 96 |
| FY 2029-30 | 64 | 36 | 28 | 128 |
| FY 2030-31 | 74 | 41 | 32 | 147 |
| FY 2031-32 | 84 | 46 | 36 | 166 |
| FY 2032-33 | 94 | 51 | 40 | 185 |

Table 3B
Beds Available Through Provisions of SB 26-149

| Fiscal Year | Mental Health Beds Available | IDD Beds Available | Neuro Beds Available | Total Beds Available |
|--------------------|-------------------------------------|---------------------------|-----------------------------|-----------------------------|
| FY 2026-27 | 37 | 4 | 10 | 51 |
| FY 2027-28 | 37 | 22 | 10 | 69 |
| FY 2028-29 | 37 | 22 | 10 | 69 |
| FY 2029-30 | 37 | 22 | 10 | 69 |
| FY 2030-31 | 37 | 22 | 10 | 69 |
| FY 2031-32 | 37 | 22 | 10 | 69 |
| FY 2032-33 | 37 | 22 | 10 | 69 |

Table 3C
Additional Contract Beds Required

| Fiscal Year | Mental Health Contract Beds | IDD Contract Beds | Neuro Contract Beds | Total Contract Contract Beds |
|--------------------|------------------------------------|--------------------------|----------------------------|-------------------------------------|
| FY 2026-27 | 0 | 5 | 0 | 5 |
| FY 2027-28 | 0 | 0 | 4 | 4 |
| FY 2028-29 | 11 | 5 | 11 | 27 |
| FY 2029-30 | 27 | 14 | 18 | 59 |
| FY 2030-31 | 37 | 19 | 22 | 78 |
| FY 2031-32 | 47 | 24 | 26 | 97 |
| FY 2032-33 | 57 | 29 | 30 | 116 |

Mental Health Beds (37 beds available in FY 2026-27)

As outlined in Table 3A above, the fiscal note estimates 94 mental health beds are required by FY 2032-33. The CDHS has identified 37 beds at the CMHHIP which could be used to address the need. It is assumed that contract placements will be used for remaining mental health placements outside those available at the CMHHIP.

IDD Beds (38 beds built or renovated)

The CDHS currently does not have available beds to house individuals placed in enhanced protective placement with an IDD diagnosis. To create beds, the department will renovate a regional center facility and a facility at CMHHIP.

Regional Center Renovation (4 beds available in FY 2026-27)

In the current FY 2025-26, the bill increases expenditures to renovate one regional center group home to enhance security of the group home. This renovation is estimated to cost around \$500,000. Additional costs for security are outlined in the staff section below. The fiscal note assumes beds will be available July 2026.

CMHHIP Renovation (18 beds available in FY 2027-28)

Renovation costs are estimated at \$3.6 million in the current FY 2025-26 only to renovate an existing building and relicense an existing facility to add 18 beds at CMHHIP to house additional enhanced protective placements for IDD. This amount is transferred from the General Fund to the Capital Construction Cash Fund, therefore, expenditures will come from the cash fund. Currently, these beds are occupied by 16 individuals; relocating these individuals will require additional contract bed costs, estimated at \$6.7 million per year. Finally, an additional \$774,000 is needed for operating expenses of the bed, such as medication, treatment carts, and laundry services. These beds are assumed to be available in October 2027.

Neurocognitive Beds

Similar to the IDD population, the CDHS currently does not have available beds to house individuals placed in enhanced protective placement with a neurocognitive diagnosis. To create beds, the department will contract with a nursing facility.

Nursing Facility (10 beds available in FY 2026-27)

The CDHS will contract with a skilled nursing facility to treat individuals with neurocognitive disorders. As part of the facility, the CDHS will have one-time renovation costs to the facility at \$50,000 in the current FY 2025-26 for minor facility updates. Otherwise, a contracted 10 bed facility is estimated to cost about \$550 per day, or \$2.0 million per year. Beds are assumed to be available in July 2026, and that 30 percent of individuals will be covered by CDHS, and the remaining will be covered by Medicaid. This results in costs of \$607,725 to the CDHS. The remainder of the cost will be borne by HCPF as explained in the HCPF section.

Additional Contract Beds

Even after taking into account the beds created above, the bill results in a shortfall in beds. Table 3D below outlines the costs for additional contract beds by placement type. Estimated costs assumed a daily rate of \$1,200 per day for a mental health contract bed, \$1,500 per day for IDD contract beds, and about \$550 per day for a neurocognitive bed.

**Table 3D
 Cost for Additional Contract Beds**

| Fiscal Year | MH Beds | IDD Beds | Neuro Beds | Total Costs |
|--------------------|----------------|-----------------|-------------------|---------------------|
| FY 2026-27 | \$0 | \$2,737,500 | \$0 | \$2,737,500 |
| FY 2027-28 | \$0 | \$0 | \$1,043,900 | \$1,043,900 |
| FY 2028-29 | \$4,818,000 | \$2,737,500 | \$2,870,725 | \$10,426,225 |
| FY 2029-30 | \$11,826,000 | \$7,665,000 | \$4,697,550 | \$24,188,550 |
| FY 2030-31 | \$16,206,000 | \$10,402,500 | \$5,741,450 | \$32,349,950 |
| FY 2031-32 | \$20,586,000 | \$13,140,000 | \$6,785,350 | \$40,511,350 |
| FY 2032-33 | \$24,966,000 | \$15,877,500 | \$7,829,250 | \$48,672,750 |

Funding for contract beds and related costs is partially offset with federal Medicaid funding.

Federal Match

The fiscal note assumes that Medicaid placements in the CMHHIP facility, the contract nursing facility, and the regional center will be eligible for federal match at a 50 percent match. It is further assumed that 90 percent of patients in the CMHHIP facility, 70 percent of the patients in the nursing facility, and 100 percent of patients at the regional center will be Medicaid members.

Other Department of Human Services Impacts

Starting in FY 2026-27, the bill increases expenditures in the CDHS to hire additional staff, categorized below by staff related to beds, care coordination, evaluations, release examinations, administration, and data management.

Bed Staffing

Starting in FY 2026-27, the CDHS requires staffing for the additional beds, primarily medical staff, as well as security and administrative staff. Staff levels will increase as beds come online as follows:

- 18.1 FTE in FY 2026-27;
- 77.4 FTE in FY 2027-28; and
- 98.9 FTE in FY 2028-29 and ongoing.

In addition, CDHS requires contract staff associated with placements, including:

- contract security for regional centers at \$250,000 per year starting in FY 2026-27;
- 0.3 FTE psychiatrist and 0.5 FTE physician assistant for the skilled nursing facility starting in FY 2026-27; and
- 1.0 FTE contracted psychiatrist and 0.5 FTE contracted physician assistant for the renovated CMHHIP facility starting in FY 2027-28.

Bed Operating Costs

CDHS requires one-time purchases of computer tablets and medication treatment carts, estimated at \$24,000 in FY 2026-27 only. Beginning in FY 2026-27, laundry service is estimated at \$720,000. Beginning FY 2028-29, costs for unit operating at \$112,000, increasing to \$140,000 in outyears.

Care Coordination

The CDHS requires 25.0 FTE to provide care coordination for those placed in civil commitment or enhanced protective placement.

Release Examinations

The CDHS requires 3.0 FTE administrative staff over three years, and 7.0 FTE contract psychologist staff over 4 years to provide release examinations from civil commitment or an enhanced protective placement. The amount of work is based on the release examinations for persons found not guilty by reason of insanity. Staff need increases year over year to account for more individuals entering civil commitment and enhanced protective placement each year.

Administrative Costs

The CHDS requires an estimated 9.0 FTE to process additional civil commitment and enhanced protective placement requirements and orders, and to process additional civil certification orders and petition orders from the courts. This analysis assumes that workload will increase by 50 percent to accommodate the additional orders.

Data and Information Technology

The CDHS requires 3.0 FTE to track and maintain data court orders, reporting, petitions; to expand and maintain data system requirements for civil commitment and enhanced protection placements; and to modify and integrate changes to the electronic health record system in the regional center to integrate with the system in CMHHIP. In addition, the department requires 1.0 FTE to coordinate with other departments and to collect and report required information for the SMART Act hearing.

In FY 2026-27 only, the bill requires \$100,000 to make modifications to the electronic health record system to allow for data transfers between the regional center and the CHMMIP. Beginning in FY 2026-27 and ongoing, CDHS requires \$30,000 for an annual electronic health record system subscription.

Legal Services

CDHS requires 1,750 legal hours in FY 2026-27 and 1,150 hours in FY 2027-28 and ongoing for rulemaking and general counsel.

Judicial Department

The bill increases expenditures in the Judicial Department to hire additional judicial officers and staff, to pay for counsel, and to update IT systems, as shown in Table 4 and described below. Costs represented in FY 2027-28 continue indefinitely.

Table 4
State Expenditures
Judicial Department

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|----------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$1,210,062 | \$1,648,926 |
| Operating Expenses | \$25,088 | \$33,792 |
| Capital Outlay Costs | \$414,400 | \$0 |
| Court-Appointed Personnel | \$719,608 | \$719,608 |
| IT Modifications | \$1,113,744 | \$0 |
| Electronic Filing of Evaluations | \$26,296 | \$0 |
| District Attorney Reimbursements | \$199,125 | \$199,125 |
| Centrally Appropriated Costs | \$274,954 | \$373,775 |
| Total Costs | \$3,983,278 | \$2,975,227 |
| Total FTE | 11.2 FTE | 15.2 FTE |

Staff

The Judicial Department requires additional staff for judicial officers, appellate staff, and additional central support staff, as described below. Staffing costs in the first year are prorated for an assumed start date of October 1, 2026, to account for time to hire judges and for additional hearings to begin, except as otherwise noted below.

Judicial Officers

The bill requires an additional 2.8 FTE judicial officers, due to additional hearings being created by the bill. Additional work is from:

- additional orders related to case materials, release plans, appointment of counsel or other professionals, placement identification, and evaluations;
- additional hearings such as restorability hearings; and
- additional cases resulting from placement types created by the bill.

This additional work is multiplied by the assumed number of cases which include:

- for the outpatient civil certification, an assumed 325 cases;
- for protective placements, an assumed 300 cases;
- for civil commitment and enhanced protective placements, an assumed 56 impacted cases of which 45 will go to trial; and
- for the incompetent to proceed process generally, all 2,457 cases.

In accordance with the department's common policy, each judge requires support staff and an assumed 1:3 ratio. This results in 8.4 FTE. In addition, per Joint Budget Committee Staff common policies judicial officers receive additional operating and capital costs for a law library, robes and cleaning, travel and AV costs.

Appellate Staff

The bill allows civil commitment cases and protective placement cases to be appealed. This will increase work to the appellate courts, requiring an additional 1.0 staff attorney to help support the court. The attorney would review briefs, prepare drafts of legal opinions, and serve as a subject matter expert in these types of appeals. The fiscal note assumes there will be at least 57 appeals per year. This staff is assumed to have a start date of January 1, 2027, to allow time for cases to be appealed.

Additional Support Staff

The additional FTE required under the bill results in the need for, education, training, analysis, and coordinating competency dockets. It is estimated that the bill will increase central staff needed by 3.0 FTE.

Court-Appointed Counsel

The bill increases expenditures by \$719,608 per year to pay for appointed counsel and court visitors. This is based on the assumption that around 1,100 cases per year of civil certification or any of the new placements will require that counsel be appointed by the court and that 150 cases will require an appointment of a guardian and necessitate a court visitor and counsel. In addition, the fiscal note assumes that only 25 percent of cases will not already have an attorney appointed to them. Appointed counsel is estimated to cost about \$1,150 per case and a court visitor \$340 per case.

Information Technology Upgrades

In FY 2026-27 only, the bill increases expenditures by \$1.1 million to update a variety of court case management systems. This includes application updates to support new case types, event codes, schedule codes, etc., data transfers for mental health cases to report to CCIC and CICJIS, updating court appointed counsel integration, and other updates to processes for holds, sealing records, VRA processes, and e-filing of mental health reports.

Electronic Filings

In FY 2026-27 only, the bill increases state expenditures in the Judicial Department by \$26,296 to expand the electronic submission requirements for their e-filing platforms to allow filings from non-attorney professionals. This cost assumes 173 hours of programming at a cost of \$152 per hour. These costs will be paid from the Judicial Information Technology Cash Fund.

District Attorney Reimbursements

The bill requires the state to reimburse district attorney offices for certain mandated costs for conducting hearings established under the bill. The fiscal note estimates mandated cost reimbursement will increase by about \$200,000 per year starting in FY 2026-27.

Behavioral Health Administration

The bill increases expenditures in the BHA to hire additional staff, and to pay for care coordination services, and IT modifications, as shown in Table 5 and discussed below. Costs represented in FY 2027-28 continue indefinitely.

Table 5
State Expenditures
Behavioral Health Administration

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$72,325 | \$39,033 |
| Operating Expenses | \$1,280 | \$640 |
| Capital Outlay Costs | \$7,000 | \$0 |
| IT Modifications | \$52,644 | \$4,091 |
| BHASO Care Coordination | \$260,000 | \$260,000 |
| Centrally Appropriated Costs | \$21,227 | \$10,881 |
| Total Costs | \$414,477 | \$314,645 |
| Total FTE | 1.0 FTE | 0.5 FTE |

Staff

The BHA requires 1.0 FTE in FY 2026-27 and 0.5 FTE in FY 2027-28. This includes 0.5 FTE to collect, organize, and report on cases where a treatment provider could not be identified. In FY 2026-27 only, the BHA requires 0.5 FTE to train persons and entities in the behavioral health field.

Care Coordination Services

Starting in FY 2026-27, the bill increases expenditures by \$260,000 to provide care coordination through BHASOs for individual civilly certified and individuals placed in protective placements.

IT Modifications

In FY 2026-27 only, the bill increases expenditures to allow for data reporting to be disaggregated. This data service is estimated to cost \$53,000 in FY 2026-27 and \$4,000 in the outyears. This assumes 428 hours of work at \$123 per hour in FY 2026-27 and 32 hours of work in FY 2027-28 and ongoing at \$127.86 per hour.

Office of the Court Liaison

The bill increases expenditures in the Office of the Court Liaison (Bridges of Colorado) to hire additional liaisons and to continue psychological assessment services, as shown in Table 6 and discussed below. Costs represented in FY 2027-28 continue indefinitely.

Table 6
State Expenditures
Office of the Court Liaison (Bridges)

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$310,154 | \$310,154 |
| Operating Expenses | \$4,224 | \$4,224 |
| Capital Outlay Costs | \$21,000 | \$0 |
| Psychological Assessments | \$0 | \$927,363 |
| Centrally Appropriated Costs | \$76,699 | \$76,699 |
| Total Costs | \$412,077 | \$1,318,440 |
| Total FTE | 3.3 FTE | 3.3 FTE |

Staff

Bridges will require an additional 3.3 FTE due to additional appointments for defendants who are found unrestorable. According to the office, of the eligible population, a Bridges court liaison was not appointed in an estimated 114 cases that would, under the bill, require a liaison. This results in a need for 3.3 FTE Bridges service professionals.

Psychological Assessments

The bill allows defendants to take a psychological assessment to help determine appropriate levels of care. This mirrors a pilot program that Bridges is currently conducting through FY 2026-27 for which Bridges is currently funded at around \$900,000 and 7.0 FTE. By codifying this program, expenditures will increase by an estimated \$930,000, after adjusting for actual costs for the program, starting in FY 2027-28, when the pilot program is scheduled to end.

Office of the State Public Defender

The bill increases expenditures in the Office of the State Public Defender for additional staff and pay for mandated costs to defend defendants having civil commitment or enhanced protective placement sought against them, as shown in Table 7 and explained below. Costs represented in FY 2027-28 continue indefinitely.

**Table 7
 State Expenditures
 Office of the State Public Defender**

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$411,405 | \$411,405 |
| Operating Expenses | \$5,760 | \$5,760 |
| Capital Outlay Costs | \$28,000 | \$0 |
| Attorney Fees | \$570 | \$570 |
| Training | \$4,000 | \$4,000 |
| Expert Testimony | \$199,125 | \$199,125 |
| Centrally Appropriated Costs | \$103,517 | \$103,517 |
| Total Costs | \$752,377 | \$724,377 |
| Total FTE | 4.5 FTE | 4.5 FTE |

Staff

Starting in FY 2026-27, the office requires 4.5 FTE. This is based on the assumption that the office will represent 80 percent of the assumed 56 cases, of which 45 go to trial. This includes 2.8 FTE for attorneys, assuming one attorney can handle around 13 cases per year. An Additional 1.7 FTE will support attorneys in their work, including investigators, paralegals, administrative assistants, and other central staff. Costs include attorney fees and training costs.

Expert Testimony

Expenditures will increase for the office to hire experts to testify in the case. Costs are estimated at 25 hours per case at \$177 per hour.

Health Care Policy and Financing

The bill increases costs in the Department of Health Care Policy and Financing (HCPF) to hire additional staff, as shown in Table 8 and described below, paid from General Fund and federal funds. Costs represented in FY 2027-28 continue indefinitely.

**Table 8
 State Expenditures
 Department of Health Care Policy and Financing**

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$242,749 | \$242,749 |
| Operating Expenses | \$3,840 | \$3,840 |
| Capital Outlay Costs | \$21,000 | \$0 |
| Nursing Facility Payments | \$1,418,025 | \$1,418,025 |
| Centrally Appropriated Costs | \$66,079 | \$66,079 |
| Total Costs | \$1,751,693 | \$1,730,693 |
| Total FTE | 3.0 FTE | 3.0 FTE |

Table 8 does not reflect bed-related costs in CMHHIP and CDHS regional centers paid through Medicaid; these are displayed in Table 4 and discussed below.

Staff

HCPF requires 3.0 FTE to provide care coordination for enhanced protective placement and protective placement individuals. One FTE will develop, implement, and oversee the contracted nursing facility program with CDHS. The position will build and maintain provider networks including recruitment and onboarding. They would also coordinate care for Medicaid eligible individuals in these facilities. 2.0 FTE is required to develop, implement and administer an outpatient clinic program. The positions would establish the structure and operational framework for outpatient services. One FTE would focus on Medicaid members and the other would focus on non-Medicaid members.

Nursing Facility

In addition to the staff, expenditures will increase to contract for a skilled nursing facility for Medicaid clients placed in enhanced protection placement. As outlined in the CDHS section, a facility is estimated to cost \$2.0 million per year to contract and operate. It is further assumed that 70 percent of clients at the facility will have Medicaid, meaning \$1.4 million will be borne by HCPF, half coming from the General Fund and half coming from federal funds.

Regional Centers

Similar to the nursing facility, Medicaid will cover part of the cost outlined in the CDHS section for placement in the regional centers. The fiscal note assumes all individuals placed in the center will receive Medicaid reimbursement, with a 50/50 split between General Fund and federal funds. In addition, reimbursement for the regional centers is expected to occur with a one-year lag, meaning reimbursements will begin in FY 2027-28. This results in reimbursement costs of \$876,282 per year.

CMHHIP

Finally, Medicaid will cover part of the cost outlined in the CDHS section for placement in the CMHHIP facility. It is assumed that 90 percent of the individuals placed in this facility will qualify for Medicaid and costs will be covered with a 50/50 split between General Fund and federal funds. Reimbursement is assumed to begin in FY 2027-28 when the CMHHIP facility becomes operational, and prorated for an October 1, start date. This results in reimbursement costs of \$5.0 million in FY 2027-28 and \$8.3 million in FY 2028-29.

Office of Alternate Defense Counsel

The bill increases costs in the Office of Alternate Defense Counsel to defend defendants who have a conflict of interest with a public defender, as shown in Table 9. It is assumed that the remaining 20 percent of cases will be defended by OADC at a rate of \$14,000 per case. In addition, it is assumed that 8 cases will be appealed requiring an additional \$12,000 per case.

**Table 9
 State Expenditures
 Office of Alternate Defense Counsel**

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|-----------------------|-----------------------------------|--------------------------------|
| Contract Attorney | \$206,345 | \$206,345 |
| Total Costs | \$206,345 | \$206,345 |
| Total FTE | 0.0 FTE | 0.0 FTE |

Office of Public Guardianship

The bill increases costs in the Office of Public Guardianship as shown in Table 10. The office initially requires 5.5 FTE in FY 2026-27, based on the assumption that there will be an additional 150 appointments requiring a public guardian. This estimate uses OPG data from calendar year 2025 indicating there were 168 cases dismissed that may qualify for a public guardian, and applies a 90 percent utilization rate. In addition, due to the assumed length of stay for individuals placed in civil commitment or enhanced protection placement, the fiscal note assumes an additional 1.0 FTE will be needed each year through FY 2029-30, with these costs continuing indefinitely.

Because the office is not expanded to all districts, the fiscal note assumes that public guardians assigned to cases in districts where the office is not established will increase travel expenses in mileage reimbursement, per diem, and potential overnight stays. Travel expenses is estimated at \$8,500 per FTE.

Table 10
State Expenditures
Office of Public Guardianship

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 | Out Year FY 2028-29 | Out Year FY 2029-30 |
|------------------------------|-----------------------------------|--------------------------------|--------------------------------|--------------------------------|
| Personal Services | \$418,018 | \$494,021 | \$570,024 | \$646,027 |
| Operating Expenses | \$7,040 | \$8,320 | \$9,600 | \$10,880 |
| Capital Outlay Costs | \$42,000 | \$0 | \$0 | \$0 |
| Travel Expenses | \$46,750 | \$55,250 | \$63,750 | \$72,250 |
| Centrally Appropriated Costs | \$118,632 | \$140,201 | \$161,771 | \$183,340 |
| Total Costs | \$632,440 | \$697,792 | \$805,145 | \$912,497 |
| Total FTE | 5.5 FTE | 6.5 FTE | 7.5 FTE | 8.5 FTE |

Future Office Expansion

The office is currently only operating in three judicial districts, but is expanding as a result of SB 23-064 to be in all judicial districts by 2030. As the office expands, expenditures may increase as they more districts can appoint public guardians, which the fiscal note assumes will be requested through the annual budget process, as appropriate. However, the General Assembly may choose to provide resources in this bill to expand the office to all Judicial Districts. If the General Assembly would like to do that, it should appropriate \$1.4 million in FY 2026-27. In addition, the General Assembly should appropriate \$41,703 to the Office of Administrative Services for Independent Agencies for 0.4 FTE, to support the additional FTE.

Department of Law

Starting in FY 2026-27, the bill increases expenditures in the Department of Law to provide \$150,000 to district attorney for training around competency proceedings.

Table 11
State Expenditures
Department of Law

| Cost Component | Out Year FY 2028-29 | Out Year FY 2029-30 |
|-----------------------------|--------------------------------|--------------------------------|
| Competency Training for DAs | \$150,000 | \$150,000 |
| Total Costs | \$150,000 | \$150,000 |
| Total FTE | 0.0 FTE | 0.0 FTE |

Local Government

The bill increases costs to district and county attorney offices, as described below. It will also modify county jail workload and potentially decrease costs.

District Attorneys

Expenditures in district attorney offices will increase to seek civil commitment and enhanced protection placements for an assumed 54 cases. Statewide, impacts are expected to be similar to that of the Office of the State Public Defender; however, workload will be split among 23 judicial districts, rather than to one centralized office. Costs will also increase to pay for independent evaluations if a district attorney seeks one. Exact costs will depend on jurisdiction, current staffing levels, and the number of cases pursued in that jurisdiction. The fiscal note assumes that districts with higher populations will see impacts that may result in an FTE requirement, while other districts may absorb the workload within current resources. The fiscal note will be updated if it receives additional information.

County Attorneys

Expenditures to counties will increase as county attorneys are ordered or choose to pursue civil certification or another placement created by the bill. It is estimated that each case will cost a county \$2,500. Assuming 46 cases are transferred to a civil court, this would increase costs statewide by \$115,000. Costs will also increase to pay for independent evaluations if a county attorney seeks one. To the extent county attorneys are involved in civil certification cases, additional costs may be incurred. It is unknown how many additional civil cases will be pursued.

County Jails

Evaluations conducted in a jail will reduce county jail workload to move prisoners for offsite evaluations. In addition, to the extent persons currently held in county jails are moved to other placements created under the bill, costs for counties to hold these individuals will decrease.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

FY 2025-26 Appropriations

For the current FY 2025-26, the bill requires an appropriation to the Department of Human Services of \$4,113,832, of which \$535,934 is General Fund and \$3,577,898 is from the Capital

Construction Fund. The DHS may require roll-forward spending authority for the capital construction appropriation.

FY 2026-27 Appropriations

For FY 2026-27, the bill requires appropriations of \$26.0 million to nine agencies, primarily from the General Fund, as outlined below:

- \$18,369,042 General Fund to the Department of Human Services and 60.1 FTE; of this amount, \$242,323 is reappropriated to the Department of Law with an additional 1.0 FTE;
- \$3,708,324 to the Judicial Department as follows:
 - \$3,682,028 General Fund to the Judicial Department and 11.2 FTE; of which \$119,125 is passed through to district attorney offices to reimburse for mandated costs; and
 - \$26,296 from the Judicial IT Cash Fund to the Judicial Department;
- \$393,249 General Fund to the Behavioral Health Administration and 1.0 FTE; of this amount, \$52,644 is reappropriated to the Office of Information Technology;
- \$335,378 General Fund to the Office of the Court Liaison and 3.3 FTE;
- \$648,860 General Fund to the Office of the State Public Defender and 4.5 FTE;
- \$1,685,614 to the Department of Health Care Policy and Financing, as follows:
 - \$267,589 and 3.0 FTE for staff and operating expenses, of which \$133,795 is General Fund and \$133,794 is federal funds; and
 - \$1,418,025 for skilled nursing facilities, of which \$709,013 is General Fund and \$709,013 is federal funds;
- \$206,345 General Fund to the Office of Alternate Defense Counsel;
- \$513,808 General Fund to the Office of Public Guardianship and 5.5 FTE; and
- \$150,000 General Fund to the Department of Law, to be passed through to the Colorado District Attorneys' Council.

Departmental Difference

The primary difference between the department's estimates and the fiscal note are due to differing population assumptions and interpretations of what the bill requires. The main differences are outlined below.

- The CDHS estimates the bill will cost \$5.9 million in the current fiscal year, \$98.5 million in the budget year. Estimates also differ in out-years, but exact out-year estimates have not been provided at the time of this writing. These costs assume more individuals will be placed in a civil commitment or an enhanced protective placement—66 cases is CDHS estimate

versus 45 cases in the fiscal note’s estimate. The remaining cost differences are about bill interpretation. CDHS assumes it will be required to build out 8-bed stabilization units on its mental health hospitals, run an outpatient clinic, and perform mental health evaluations within a two-day timeframe. The fiscal note does not include the stabilization units under the assumption that the bill does not intend CDHS facilities to be used as emergency rooms and that a clarifying amendment will be forthcoming. It does not include outpatient treatment, as the bill requires all outpatient care to occur within existing resources.

- The Judicial Department estimates the bill will increase costs by about \$7.6 million in FY 2026-27, and by about \$6.2 million in outyears for additional judicial officers and support staff. These costs assume 200 individuals will be placed in a civil commitment or an enhanced protective placement, whereas the fiscal note assumes 45 cases.
- The BHA estimates the bill will increase cost by \$393,000 in FY 2026-27 and outyears. The fiscal note minimally differs from this in assuming that 0.5 FTE can perform the reporting requirements in the bill, compared to BHA’s estimate of 1.0 FTE.
- The Office of Public Guardianship estimates that bill will increase costs by \$1.4 million and \$2.5 million to expand the office to all judicial districts. In association with this request, the Office of Administrative Services for Independent Agencies estimated costs of \$62,000 in the budget year, and \$42,000 in the outyears. Because the expansion of the office to all judicial districts by 2030 is already required under SB 23-064, the fiscal note assumes that the bill itself does not require the expansion timeline to accelerate. In addition, the Office of Administrative Services for Independent Agencies would require 0.4 FTE, to support the additional FTE.

State and Local Government Contacts

Behavioral Health Administration
Bridges
Counties
District Attorneys
Health Care Policy and Financing

Human Services
Independent Judicial Agencies
Judicial
Law