



**Colorado
Legislative
Council
Staff**

SB17-012

FISCAL NOTE

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

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|--|---|
| Drafting Number: LLS 17-0149 | Date: January 31, 2017 |
| Prime Sponsor(s): Sen. Martinez Humenik Rep. Lee | Bill Status: Senate Judiciary |
| | Fiscal Analyst: Kerry White (303-866-3469) |

BILL TOPIC: COMPETENCY RESTORATION SERVICES AND EDUCATION

| Fiscal Impact Summary | FY 2017-2018 | FY 2018-2019 |
|---|------------------------------------|------------------------------------|
| State Revenue | | |
| State Expenditures | <u>at least \$1,202,309</u> | <u>at least \$1,171,910</u> |
| General Fund | 1,171,723 | 1,131,635 |
| Centrally Appropriated Costs | 30,586 | 40,275 |
| FTE Position Change | 2.3 FTE | 3.0 FTE |
| Appropriation Required: \$1,171,723 - Department of Human Services (FY 2017-18). | | |
| Future Year Impacts: Ongoing state expenditure increase. | | |

Summary of Legislation

This bill, *recommended by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems*, establishes the Office of Behavioral Health in the Department of Human Services (DHS) as the agency responsible for restoration education and the coordination of competency restoration services. It sets forth the duties, responsibilities, and reporting requirements of the office.

Under current law, restoration services are to be provided in the least restrictive environment. This bill adds the requirement that provision of restoration services and a juvenile's participation occur in a timely manner. Under current law, the court must review a juvenile's progress toward competency at least every 90 days. For juveniles in custody, this bill requires the court to review their case every 30 days.

This bill also directs the court to consider whether restoration of competency should occur on an outpatient basis for defendants on bond or summons.

Background

Under current law, a defendant found to be incompetent to proceed may be released on bond with treatment or habilitation services at a community mental health center being required. If the court determines that the defendant is not eligible for release, it may commit the defendant

to the custody of the DHS. Juveniles found to be incompetent to proceed are ordered by the court to receive services designed to restore competency in the least-restrictive manner possible while taking public safety into consideration.

The DHS is authorized to designate the state facility at which the defendant will be held for care. Restoration services are currently provided through the Colorado Mental Health Institute at Pueblo (CMHIP) or through a contract with services provided at the Arapahoe County jail. In FY 2015-16, there were 671 competency restoration orders issued by Colorado courts, with 450 inpatient restorations and 221 outpatient restorations.

Assumptions. This fiscal note is based on the following assumptions:

- the average length of stay in the restoration program will be 120 days;
- 334 competency clients will be served annually, with an average of 110 being served on any given day; and
- the number of outpatient restorations will increase, however a corresponding decrease in inpatient beds will not occur due to high demand for inpatient competency restoration.

It is assumed that the actual average length of stay, number of competency clients served, and inpatient bed needs will be evaluated annually by the Office of Behavioral Health and any changes in appropriations will be addressed through the annual budget process.

State Expenditures

This bill increases state General Fund expenditures in the Department of Human Services by at least \$1,202,309 and 2.3 FTE in FY 2017-18 and \$1,171,910 and 3.0 FTE in FY 2018-19. This bill also increases workload in the Office of Information Technology (OIT) and the Judicial Department. These impacts are shown in Table 1 and discussed below.

| Table 1. Expenditures Under SB17-012 | | |
|--|--------------------|--------------------|
| Cost Components | FY 2017-18 | FY 2018-19 |
| Personal Services | \$143,811 | \$191,747 |
| FTE | 2.3 FTE | 3.0 FTE |
| Operating Expenses and Capital Outlay Costs | 16,959 | 2,850 |
| Competency Education/Case Manager Contract Staff | 982,953 | 927,038 |
| Competency Restoration Curriculum | 18,000 | 0 |
| Training | 10,000 | 10,000 |
| Centrally Appropriated Costs* | 30,586 | 40,275 |
| TOTAL | \$1,202,309 | \$1,171,910 |

* Centrally appropriated costs are not included in the bill's appropriation.

Personal services. The Office of Behavioral Health requires 3.0 FTE to implement the bill, including a program manager, program coordinator, and analyst. Staffing is prorated to 2.3 FTE in the first year to account for a September 1, 2017, start date and the General Fund paydate shift. The program manager will oversee outpatient and inpatient restoration services provided by the DHS, manage the educators/case management contract, establish adult and juvenile restoration

education curriculum, and be responsible for future reporting to the General Assembly. The program coordinator will work with the educators/case managers to ensure proper training, independent operation from competency evaluators, and the use of best practices. The analyst will coordinate the sharing of data between DHS, the Judicial Department, the CMHIP, and community health centers and produce program reports. This fiscal note assumes it will take two years to implement competency restoration education services and the provision of competency restoration which includes developing standardized curriculum, establishing models integrating competency restoration education with case management and treatment, and determining best practices. Once this program is fully established, staffing levels will be reassessed and any change in appropriations will be addressed through the annual budget process.

Competency education/case management contract staff. This bill requires education providers to be independent from competency evaluators and therefore contract staff is needed to provide education services and coordinate behavioral health and medical services. Assuming an eight to one ratio of clients to educators/case managers and 110 clients per day, 14 contract FTE are needed. Costs for contract staff include salary, benefits, operating expenses, and contract administrative costs and are prorated in FY 2017-18 assuming a September 1, 2017, start date. DHS will select the contractor through the request for proposal (RFP) process. It should be noted that these costs are based on assumptions from clients served in other states. Should the average length of stay exceed 120 days, this analysis assumes the DHS will request additional appropriations through the annual budget process.

Competency curriculum development. For FY 2017-18 only, \$18,000 is needed for the development of competency restoration curriculum. This cost assumes that department will modify the Florida state hospital model to make it conform to Colorado law.

Training. Beginning in FY 2017-18, and each year thereafter, \$10,000 is needed for training. This includes subject matter expert and forensic-based training and assumes one training per year, with taped webinars available for new staff.

Judicial Department. Overall, this bill is expected to increase workload in the trial courts for competency hearings by a minimal amount. This increase can be accomplished within existing appropriations. It is possible that this bill will reduce costs in the Office of the Child's Representative if the bill results in fewer hearings set due to the inability to secure restoration services. These savings have not been estimated, but are also assumed to be minimal.

Office of Information Technology. This bill increases Office of Information Technology workload to create and maintain a new restoration services reporting category within the behavioral health data system Encounters. This increase in workload is minimal and can be accomplished within existing appropriations.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

| Table 2. Centrally Appropriated Costs Under SB17-012 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2017-18 | FY 2018-19 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$17,700 | \$23,093 |
| Supplemental Employee Retirement Payments | 12,886 | 17,182 |
| TOTAL | \$30,586 | \$40,275 |

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State Appropriations

For FY 2017-18, this bill requires a General Fund appropriation of \$1,171,723 to the Department of Human Services and an allocation of 2.3 FTE.

State and Local Government Contacts

Human Services Information Technology Judicial Sheriffs