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Fiscal Note

Drafting Number: LLS 24-0953 Date: March 19, 2024
Prime Sponsors: Rep. Mabrey; Amabile Bill Status: House Judiciary
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Bill Topic: MEASURES TO REDUCE THE COMPETENCY WAIT LIST

Summary of Fiscal Impact:
State Revenue [ ] State Transfer [ ] Local Government [x]
State Expenditure [x] TABOR Refund [ ] Statutory Public Entity [ ]

The bill creates the Bridges Wraparound Care Program to refer eligible individuals from the criminal justice system to mental health services. Starting in FY 2024-25, the bill increases state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$1.4 million to multiple state agencies. See State Appropriations section.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 24-1355

Table with 4 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

1 A portion of staffing for Bridges of Colorado for FY 2025-26 in the fiscal note for SB 23-229 must instead begin in FY 2024-25 under this bill. This staffing cost is shown as a continuing into future year in this fiscal note. Of the amounts shown in Table 1 above, \$799,185 and 11.0 FTE in FY 2025-26 and \$1,463,970 and 14.0 FTE in FY 2026-27 represent duplicative costs for staffing included in SB 23-229. This staffing should only be annualized in the budget for one, but not both, of these bills. See Background Section for more information on this prior legislation.

## **Summary of Legislation**

The bill creates the Bridges Wraparound Care Program in the Office of the Statewide Behavioral Health Court Liaison (commonly referred to as Bridges of Colorado) to refer eligible individuals from the criminal justice system to mental health services.

**Memorandums of understanding for the referral process.** The bill requires each judicial district to enter into a memorandum of understanding (MOU) regarding Bridges Wraparound Care Program referrals with district attorneys, public defenders, the Department of Human Services (CDHS), the Behavioral Health Administration (BHA), treatment providers, local behavioral health case management programs, and other stakeholders. The bill requires each judicial district to have a court coordinator who will develop MOUs, support the referral process, identify eligible individuals, and manage data gathering and reporting.

The bill staggers the implementation of the referrals process by judicial district as follows:

- April 1, 2025, for the 2nd, 17th, 18th, and 20th Judicial Districts;
- October 1, 2025, for 1st, 4th, 5th, 6th, 8th, 15th, 16th, 21st and 22nd Judicial Districts; and
- July 1, 2026, for the 3rd, 7th, 9th, 10th, 11th, 12th, 13th, 14th, 19th, and 23rd Judicial Districts.

**Program eligibility.** The bill establishes eligibility for the Bridges Wraparound Care Program. A defendant is presumptively eligible if the defendant has prior history of being found incompetent to proceed; the prosecution and defense agree a defendant is likely to have competency raised; and the highest charge is a class 1 misdemeanor, a level 3 or 4 drug felony, or non-Victim Rights Act class 5 or 6 felony.

A defendant is eligible, but not presumptively eligible, if highest charge is a non-Victim Rights Act class 4 felony, except for second degree assault in certain cases, and the defendant has a prior history of being found incompetent or if the parties agree the defendant has a behavioral health disorder.

**Program referrals.** If a defendant is eligible, the court must ask parties if the defendant should be referred to the Bridges Wraparound Care Program. If the defendant agrees to enter the program, the court will assign a Bridges Wraparound Care Coordinator, and the judge must release the defendant on a personal recognizance bond. The care coordinator must then screen and assess the defendant and create a wraparound care plan for the defendant to follow.

**Review hearings.** The bill requires the court to review the progress of the defendant within 182 days after a care coordinator is assigned. If the court finds the defendant is compliant with their plan, the charges must be dismissed. If the defendant has not satisfactorily complied with the individualized wraparound care plan but remains engaged, the court may continue the case for up to 91 days. If a defendant is not engaged, the district attorney may, at any time, terminate the placement and, if the court agrees that the defendant is not engaged, prosecution may begin.

**Reports.** The bill requires reports on the program and on the competency waitlist.

## **Background**

**Competency waitlist.** In the criminal justice system, a defendant has the right to aid in their defense. If a defendant cannot aid in their defense, the defendant is declared incompetent to proceed and the trial is paused until the defendant can be restored to competency. During this pause, a defendant may receive treatment on either an outpatient or inpatient basis. If a defendant is ordered to receive treatment on an inpatient basis, the individual is committed to the care of the state mental health hospital operated by the CDHS in two locations, Pueblo and Fort Morgan.

The CDHS currently operates 813 hospital beds through state mental health hospitals, jail-based restoration programs, and private hospital contracts. Beds are used for both civil (for individuals not involved in the criminal justice system) and forensic (for individuals involved in the criminal justice system) placements. The number of beds fluctuates based on staffing needs and contracts. According to the CDHS, the wait list for individuals seeking a hospital bed for competency restoration has fluctuated between 300 and 450 individuals over the past year.

As individuals wait for a hospital bed, they may be detained in jail. In 2011, the state was sued for the length of time individuals waited in jail before receiving competency evaluations and restoration services. Since March 2019, the state has been under a consent decree, which requires evaluations to occur within 14 to 21 days, depending on if the evaluation is done inpatient or in a county jail, and restoration services to be offered within 7 or 28 days, depending on if the defendant is a danger to themselves or others. For each day the department is not compliant, the department must pay a fine ranging from \$100 to \$500. Fines are capped at \$12.0 million General Fund for FY 2023-24, adjusted for inflation each year.

**Bridges of Colorado and Senate Bill 23-229.** In 2023, [Senate Bill 23-229](#) created Bridges of Colorado (formally the Office of the Statewide Behavioral Health Court Liaison in statute) an independent office in the Judicial Department and provided additional funding to expand the office. As a part of the expansion, and based on Joint Budget Committee staff documents, the fiscal note indicated that the office would add an additional 33.0 FTE in FY 2024-25 and 18.0 FTE in FY 2025-26 to serve the population seeking competency services.

## **Assumptions**

**Affected population.** According to Judicial Department data, from 2021 to 2023 there were an average of 5,656 cases per year that would have been eligible for the Bridges Wraparound Care Program as the most serious offense was a class 4 felony or less and the case had a mental health stay order. Because are cases where the program may not be appropriate for a defendant, the defendant does not agree to participate, or the defendant is charged with a Victim Rights Act crime, it is assumed that 60 percent of these cases, or **3,395 cases**, will participate in the program per year.

**Implementation timeline.** The fiscal note assumes that court coordinators will begin 7 months before the implementation deadline to conduct stakeholder meetings and to enter into MOUs with various agencies, and that central court coordinators will begin 3 months before the implementation to allow set up the program and onboard employees.

**State Expenditures**

The bill increases state General Fund expenditures by \$1.7 million in FY 2024-25, \$4.3 million in FY 2025-26, and \$5.0 million in FY 2026-27 and future years in the Judicial Department and the Department of Human Services. Expenditures are shown in Table 2 and detailed below.

**Table 2  
 Expenditures Under HB 24-1355**

	<b>FY 2024-25</b>	<b>FY 2025-26</b>	<b>FY 2026-27</b>
<b>Judicial Department—SCAO</b>			
Personal Services	\$828,917	\$1,676,569	\$1,879,331
Operating Expenses	\$9,500	\$19,380	\$21,755
Capital Outlay Costs	\$113,390	\$40,020	-
Centrally Appropriated Costs <sup>1</sup>	\$199,986	\$406,618	\$456,196
FTE – Personal Services	10.0 FTE	20.4 FTE	22.9 FTE
<b>SCAO Subtotal</b>	<b>\$1,151,793</b>	<b>\$2,142,587</b>	<b>\$2,357,282</b>
<b>Judicial Department—Bridges of Colorado</b>			
Personal Services	\$380,784	\$1,484,102	\$1,793,760
Operating Expenses	\$6,225	\$26,500	\$33,150
Capital Outlay Costs	\$49,000	\$72,800	\$6,800
Services Cost	\$42,510	\$321,863	\$500,000
Centrally Appropriated Costs <sup>1</sup>	\$78,495	\$310,321	\$376,034
FTE – Personal Services <sup>2</sup>	3.5 FTE	14.0 FTE	17.0 FTE
<b>Bridges Subtotal</b>	<b>\$557,014</b>	<b>\$2,215,586</b>	<b>\$2,709,744</b>
<b>Judicial Department—Probation</b>			
Personal Services	(\$16,855)	(\$60,819)	(\$60,819)
Operating Expenses	(\$1,621)	(\$2,620)	(\$2,620)
Capital Outlay Costs	(\$400)	(\$400)	(\$400)
Centrally Appropriated Costs <sup>1</sup>	(\$5,248)	(\$17,929)	(\$17,929)
FTE – Personal Services	(0.3 FTE)	(1.0 FTE)	(1.0 FTE)
<b>Probation Subtotal</b>	<b>(\$24,124)</b>	<b>(\$81,768)</b>	<b>(\$81,768)</b>

**Table 2**  
**Expenditures Under HB 24-1355 (Cont.)**

<b>Department of Human Services</b>				
Personal Services	\$23,098	-	-	
Centrally Appropriated Costs <sup>1</sup>	\$5,559	-	-	
FTE – Personal Services	0.3 FTE	-	-	
<b>CDHS Subtotal</b>	<b>\$28,657</b>	-	-	
	<b>Total</b>	<b>\$1,713,340</b>	<b>\$4,276,405</b>	<b>\$4,985,258</b>
	<b>Total FTE</b>	<b>13.5 FTE</b>	<b>33.4 FTE</b>	<b>38.9 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

<sup>2</sup> Of the 17.0 FTE identified in this fiscal note for Bridges of Colorado, 14.0 FTE were included in SB 23-229 with a start date of FY 2025-26, and are reflected in this fiscal note with an accelerated start date. The annualization of these positions into the budget for future fiscal years should occur either in this bill, or through SB 23-229, but not both.

**Judicial Department—Trial Courts and the State Court Administrator’s Office.** Beginning in FY 2024-25, expenditures in the Judicial Department will increase to hire district-level court coordinators and administrative staff within the State Court Administrator’s Office (SCAO) as described below. Additional staff costs are shown in Table 2 and include personal services, operating expenses, and capital outlay costs. Costs in FY 2024-25 are prorated for a September 1 start date. The bill will also impact trial court workload to conduct additional hearings on defendants entering the program, but this workload will be offset from fewer competency hearings overall.

- **Central court coordinators.** Starting in FY 2024-25, the SCAO requires 3.0 FTE to centrally oversee the programs established in each judicial district, support the implementation and ongoing maintenance of programs, and to collect and report required data. The bill will also increase workload to provide central human resources and accounting support the additional staff hired in the bill, for which the fiscal note assumes no change in appropriations is required.
- **District-level court coordinators.** The courts require 7.5 FTE in FY 2024-25, 17.4 FTE in FY 2025-26, and 19.9 FTE in FY 2026-27 once the program is fully implemented to assist with identifying eligible individuals; supporting the creation of MOUs; providing ongoing technical support in the referral process; and assisting with data gathering and reporting requirements. To determine appropriate staffing levels, the fiscal note doubled the current caseload standard for a problem-solving court coordinator (108 cases per year), for an assumed 216 cases annually. In some judicial districts, caseload is expected to fall below this threshold; however, it is assumed that each district will require at least 0.5 FTE to accomplish the duties above. Based on these assumptions, and the population and timeline assumptions outlined above, Table 3 identifies the number of court coordinators required per district.

**Table 3  
 Court Coordinators by Judicial District**

<b>Judicial District</b>	<b>Start Date</b>	<b>Assumed Eligible Population</b>	<b>Assumed Actual Participation</b>	<b>FTE Required</b>
1	Mar. 2025	388	233	1.1 FTE
2 <sup>1</sup>	Sept. 2024	589	353	2.1 FTE
3	Dec. 2025	25	15	0.5 FTE
4	Mar. 2025	1,307	784	3.6 FTE
5	Mar. 2025	70	42	0.5 FTE
6	Mar. 2025	65	39	0.5 FTE
7	Dec. 2025	101	61	0.5 FTE
8	Mar. 2025	407	244	1.1 FTE
9	Dec. 2025	51	31	0.5 FTE
10	Dec. 2025	207	124	0.6 FTE
11	Dec. 2025	102	61	0.5 FTE
12	Dec. 2025	78	47	0.5 FTE
13	Dec. 2025	133	80	0.5 FTE
14	Dec. 2025	25	15	0.5 FTE
15	Mar. 2025	16	10	0.5 FTE
16	Mar. 2025	95	57	0.5 FTE
17	Sept. 2024	346	208	1.0 FTE
18 <sup>2</sup>	Sept. 2024	552	331	1.5 FTE
19	Dec. 2025	311	187	0.9 FTE
20	Sept. 2024	447	268	1.2 FTE
21	Mar. 2025	290	174	0.8 FTE
22	Mar. 2025	51	31	0.5 FTE
<b>Total</b>		<b>5,656</b>	<b>3,395</b>	<b>19.9 FTE</b>

<sup>1</sup> This amount includes 0.5 FTE for Denver Juvenile Court.

<sup>2</sup> It is assumed that a part of this FTE will be transferred to the 23rd Judicial District when it comes online January 2025.

**Bridges of Colorado.** Starting in FY 2024-25, the Bridges program requires additional staff and service costs to support the wraparound service program.

- **Staff.** Once fully implemented, Bridges requires 17.0 FTE, including 14.0 FTE liaisons and 3.0 management positions, to implement the Bridges Wraparound Care Program, based on the assumed population outlined in the Assumption section above. Staff costs are shown in Table 2 and include personal services, operating expenses, and capital outlay costs. More detail about each position can be found below.
  - **Bridges court liaisons.** Based on the timelines identified in the Assumption section, the program requires 1.7 FTE in FY 2024-25, 13.2 FTE in FY 2025-25, and 17.0 FTE in FY 2026-27. Of this 17.0 FTE FTE, 14.0 FTE were identified in SB 23-229 (see Background Section). Because the bill requires a portion of this staff to start on an accelerated timeline, for outyear impacts, annualizations should occur either as a part of HB 24-1355 or SB 23-229, *not both*.
  - **Management.** Because the bill establishes a new program model, the office requires an additional 3.0 FTE to develop and implement the bill's changes, enter and negotiate MOUs, provide training, oversee the program, and to supervise the additional coordinators. Unlike the court liaisons, these positions are not included in the staff identified in SB 23-229. Costs assume a January 2025 start date.
- **Services.** The program currently has \$500,000 to provide transition services for individuals within their care. This includes paying for housing, transportation, or to cover costs for health care until the individual is enrolled in other public benefits such as Medicaid or Social Security Disability Insurance. Because the bill requires individuals to receive service as part of an agreement, the fiscal note assumes another \$500,000 is required to ensure that participants in the Wraparound Service Program get the services they require. The fiscal note also assumes that this funding can be implemented over three years due to the implementation timeline established in the bill. Based on the assumed population identified in Table 3 and the start dates identified in the bill, it is assumed 9 percent of the \$500,000 is required in FY 2024-25, 64 percent in FY 2025-26, and 100 percent in FY 2026-27 and ongoing.

**Judicial Department—Probation Division.** Once fully implemented, the bill will reduce state expenditures in the Probation Division by 1.0 FTE. This includes 0.7 FTE probation officer, 0.1 FTE supervisor, and 0.2 FTE support staff. This is based on the assumption that 60 percent of the 107 cases sentenced to probation where there was a mental health stay disorder will be diverted to the Wraparound Service Program and that 75 percent of those cases, or 47 cases, will successfully complete the wraparound service program. This results in 47 less cases sentenced to probation. The decrease is expected to begin in April 2025, when the first programs are assumed to begin. This caseload decrease will continue to be addressed through the annual budget process thereafter.

**Department of Human Services.** Starting in FY 2024-25, the CDHS requires one-time staff to review internal policies for the Office of Civil and Forensic Mental Health programs and establish the process for collecting required data and publishing the information online.

**Behavioral Health Administration.** The bill increases workload in the BHA to enter into MOU with judicial districts and to participate in stakeholder meetings. This workload can be handled within existing resources.

**Department of Corrections.** To the extent the bill diverts individuals who would be sentenced to the Department of Corrections (DOC), costs will decrease. The fiscal note assumes that candidates for the Bridges Wraparound Service Program are generally not likely to be sentenced to the DOC given the offense level for eligibility in the program; therefore, any impact to the DOC is assumed to be minimal.

**Cost savings.** In future years, the bill is expected to reduce the number of individuals entering the competency system, which will reduce the wait list for inpatient evaluation and restoration services. This may result in decreasing fines to the CDHS under the consent decree. Future cost savings will be addressed through the annual budget process.

**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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

**District attorneys.** The bill increases expenditures for local district attorney offices to support the program depending on the number of cases, as shown in Table 3. It is estimated that:

- large offices will require one additional attorney and two support staff, at a cost of \$300,000;
- medium-sized offices will require one attorney and one support staff, at a cost of \$160,000 per office; and
- small offices will require a half-time attorney and one support staff, a cost of \$120,000 per office.

Costs will be implemented over time based on the timelines outlined in the bill. Once the bill is fully implemented, it is estimated to cost district attorney offices statewide \$4.2 million annually.



**Jails.** Starting in FY 2024-25, to the extent individuals are diverted away from jail and into the bridges program, jail costs will decrease. It is unknown exactly how many individuals will be diverted from jail. Jails are operated and funded at the county level.

## Effective Date

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

## State Appropriations

For FY 2024-25, the bill requires General Fund appropriations totaling \$1,434,548 as follows:

- an increase of \$951,807 to the Judicial Department for the trial courts and the State Court Administrator's Office, and 10.0 FTE;
- an increase of \$478,518 to the Behavioral Health Court Liaison Office and 3.5 FTE;
- a reduction of \$18,876 to the Probation Division in the Judicial Department and 0.3 FTE; and
- an increase of \$23,098 to the Department of Human Services and 0.3 FTE.

## Departmental Difference

The Department of Human Services estimates the bill requires 1.0 FTE to review, align, and update all internal policies; to ensure all published policies are aligned with current law and regulations; to ensure information related to numbers of available beds and numbers of individuals waiting are consistently up-to-date; and to post the information online regularly. The fiscal note includes a one-time 0.3 FTE to establish these processes, and assumes that this work can be absorbed thereafter.

## State and Local Government Contacts

Behavioral Health Administration  
Judicial

District Attorneys

Human Services

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).