



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 25-041: COMPETENCY IN CRIM JUSTICE SYSTEM SERVICES & BAIL

Prime Sponsors:

Sen. Michaelson Jenet; Amabile
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Fiscal note status: This revised fiscal note reflects the reengrossed bill. The bill was recommended by the Legislative Oversight Committee Concerning the Treatment of Persons with Behavioral Health Disorders in the Criminal and Juvenile Justice Systems.

Summary Information

Overview. This bill requires courts to notify the Department of Human Services when denying bail and makes other changes to competency hearings, evaluations, statute of limitations, and services.

Types of impacts. The bill is projected to affect the following areas:

- State Expenditures

Appropriations. For FY 2025-26, an appropriation of \$88,663 to the Department of Human Services is permitted but not required by the bill. See State Appropriations section.

**Table 1
State Fiscal Impacts**

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill requires courts to notify the Department of Human Services (CDHS) when bail is denied; makes updates to competency hearings and evaluations; provides clarification on when a court may seek certification for short-term care; pauses the statute of limitations for those in competency diversion programs; and allows the defendant to receive inpatient services from the CDHS for additional time after charges are dropped.

Bond Setting

If the court denies a personal recognizance bond, the bill requires the court to notify the CDHS of the reasons using a newly required form.

Updates to Competency Hearings and Evaluations

The bill makes several updates to competency hearings and evaluations. The bill increases the deadline for either party to request a hearing or second evaluation from 7 to 14 days. When a second evaluation is conducted, the defendant must provide a copy to the court and prosecution and the court must furnish it to the CDHS. The CDHS must use it to ensure that it complies with its responsibilities for reviewing and summarizing a prior competency opinion. During a restoration hearing, a party may request a hearing or second evaluation 14 days after receipt of a court ordered report. A restoration hearing must be continued until a second evaluation is completed, which is subject to a 35-day deadline unless extended by the court for good cause.

Certification for Short-Term Treatment

Under current law, a petition for certification of short-term treatment may be initiated by certain parties or the court when a defendant is found incompetent to proceed. The bill clarifies that, when the highest charged offense is a felony, the court only needs agreement of the prosecuting attorney and defendant to stay the restoration order to allow for certification of short-term treatment. If the charge is a misdemeanor and not already subject to dismissal, the court may forgo an order for restoration and dismiss the charges on its own motion when certification is initiated. The bill also clarifies that a court must not order certain persons to initiate certification for short-term treatment if it such a proceeding would contradict their professional medical opinion or violate their professional conduct rules. The bill also allows the court to grant 35 day extensions of stays for dismissal of charges due if there are reasonable grounds for short-term treatment. The court may grant this extension any number of times with consent of the defendant and up to four times upon request of the prosecution if the court finds good cause depending on the charges against the defendant. If charges are dismissed, the court must notify the CDHS. The bill also allows CDHS, when the department determines the defendant meets the requirement for short-term treatment, to request the court to refer petition for short-term treatment. Finally, the bill removes the requirement that the CDHS report for certification of short-term treatment include any opinions required during an initial evaluation.

Bridges Program

The bill requires the court to vacate any existing order and prohibits orders for new evaluations or restoration services if a defendant has been accepted to participate in the Bridges Program.

Criminal Statute of Limitation

When an offender is in a competency-related diversion or defection program, the bill tolls, or pauses, the statute of limitation while the offender is in the program. The time limitations are tolled beginning when a defendant’s case is dismissed for the purpose of facilitating certification for short-term treatment until either the defendant’s criminal case is re-filed or six months has passed, whichever is earlier.

Competency Services

If criminal charges are dropped against a defendant receiving inpatient services from the CDHS, the bill allows the defendant to receive inpatient services for an additional 90 days. The bill also allows but does not require the CDHS to enter into agreements with organizations to provide permanent supportive housing for persons whose charges are dismissed or who completed the Bridges Program. Finally, the bill also requires the Bridges Program to share information with the CDHS.

State Expenditures

The bill may increase expenditures in the CDHS by about \$106,000 in FY 2025-26 and \$125,000 in FY 2026-27 and ongoing to administer housing contracts, paid from the General Fund. The bill will also increase workload in the Bridges Program and the Judicial Department.

Table 2A
State Expenditures
Department of Human Services
(permitted, but not required, by the bill)

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27
Personal Services	\$80,969	\$101,211
Operating Expenses	\$1,024	\$1,280
Capital Outlay Costs	\$6,670	\$0
Centrally Appropriated Costs	\$17,534	\$21,918
Total Costs	\$106,197	\$124,409
Total FTE	0.8 FTE	1.0 FTE

Department of Human Services

Starting in FY 2025-26, if CDHS is to administer more contracts for housing services, the Office of Civil and Forensic Mental Health requires 1.0 FTE to liaise with other state agencies, find and work with new vendors, and to oversee the various contracts. This would increase expenditures by \$106,000 in FY 2025-26 and \$124,000 in FY 2026-27, assuming that the CDHS will utilize existing grant funding for contracted services. Because the bill is permissive, these costs are at the discretion of the General Assembly.

Bridges of Colorado Program

Starting in FY 2025-26, workload to the Bridges Program in the Judicial Department will increase to provide any required data to the CDHS. In addition, workload will increase to attend additional hearings. This work can be accomplished within existing resources.

Judicial Department

Workload in the trial courts will increase to develop a new form, process additional evaluations allowed by the bill, issue stay orders, hear any additional petitions, and to vacate orders for defendants in the Bridges Program. The additional form will not cause significantly more workload to courtroom staff, and because these changes impact a narrow scope of cases, this work can be accomplished within existing resources.

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 the expenditure table above.

Effective Date

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

State Appropriations

A FY 2025-26 appropriation of \$88,663 to the Department of Human Services, and 0.8 FTE, is required to enter into additional contracts and oversee organizations offering supportive housing. As described in the State Expenditures section, this appropriation is based on duties that are permitted but not required by the bill, and thus is at the discretion of the General Assembly. The bill does not currently include this appropriation.

State and Local Government Contacts

Behavioral Health Administration

Information Technology

Bridges

Judicial

District Attorneys

Local Affairs

Human Services