



**Colorado
Legislative
Council
Staff**

FISCAL NOTE

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

Drafting Number: LLS 17-0149
Prime Sponsor(s):

Date: October 4, 2016
Bill Status: Legislative Oversight Committee
Concerning the Treatment of
Persons with Mental Illness in the
Criminal and Juvenile Justice
Systems Bill Request

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BILL TOPIC: COMPETENCY RESTORATION SERVICES AND EDUCATION

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	<u>\$1,633,216</u>	<u>\$1,811,120</u>
General Fund	1,602,630	1,770,845
Centrally Appropriated Costs	30,586	40,275
FTE Position Change	3.0 FTE	3.0 FTE
Appropriation Required: \$1,602,630 - Department of Human Services (FY 2017-18).		
Future Year Impacts: Ongoing state expenditure increase.		

Summary of Legislation

This bill, *requested 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 occurs 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 165 days;
- 334 competency clients will be served annually, with an average of 151 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 \$1,633,216 and 3.0 FTE in FY 2017-18 and \$1,811,120 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 Bill 3		
Cost Components	FY 2017-18	FY 2018-19
Personal Services	\$143,811	\$191,747
FTE	3.0 FTE	3.0 FTE
Operating Expenses and Capital Outlay Costs	16,959	2,850
Competency Education/Case Manager Contract Staff	1,333,920	1,531,248
Competency Restoration Curriculum	77,940	15,000
Training	30,000	30,000
Centrally Appropriated Costs*	30,586	40,275
TOTAL	\$1,633,216	\$1,811,120

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

Personal services. Beginning in FY 2017-18, 3.0 FTE is needed in the Office of Behavioral Health. This includes a program manager, program coordinator, and analyst and assumes a September 1, 2017, start date with the General Fund paydate shift applied to the first year. 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 151 clients per day, 19 contract FTE are needed. Contract 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, contract start date. DHS will select the contractor through the request for proposal (RFP) process.

Competency curriculum development. For FY 2017-18, \$77,940 is needed for the development of competency restoration curriculum. Beginning in FY 2018-19 and each year thereafter, \$15,000 is needed to evaluate models for the delivery of competency restoration education and to update the curriculum to ensure best practices are being utilized.

Training. Beginning in FY 2017-18, and each year thereafter, \$30,000 is needed for training. This includes subject matter expert and forensic-based training and assumes three training sessions will occur twice per year.

Judicial Department. 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.

Office of Information Technology. This bill increases Office of Information Technology workload to create and maintain a new restoration services reporting category within the 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 Bill 3		
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 \$1,602,630 to the Department of Human Services and an allocation of 3.0 FTE.

State and Local Government Contacts

Human Services

Information Technology

Judicial