



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 26-1116: PROCESS FOR PEOPLE WITH BEHAVIORAL HEALTH DISORDER

Prime Sponsors:

Rep. Rydin; Gonzalez R.

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Published for: House Health & Human Services**Drafting number:** LLS 26-0574**Version:** Initial Fiscal Note**Date:** March 9, 2026**Fiscal note status:** The fiscal note reflects the introduced note.

Summary Information

Overview. The bill modifies several processes related to mental health.**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures

Appropriations. For FY 2026-27, the bill requires an appropriation of \$1,040,038 to the Behavioral Health Administration and the Department of Human Services.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$1,222,960	\$1,097,649
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	9.0 FTE	8.8 FTE

Fund sources for these impacts are shown in the tables below.

Table 1A
State Expenditures

Fund Source	Budget Year FY 2026-27	Out Year FY 2027-28
General Fund	\$1,040,038	\$914,727
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$182,922	\$182,922
Total Expenditures	\$1,222,960	\$1,097,649
Total FTE	9.0 FTE	8.8 FTE

Summary of Legislation

The bill makes changes to several processes related to mental health processes, including emergency commitments, competency evaluations, and mental health holds. It also makes changes regarding licensing of behavioral health entities by the Behavioral Health Administration (BHA). These changes are described in more detail below.

Emergency Commitment

The bill repeals and reenacts the emergency commitment process to align it with the mental health hold process (see the Background Section below for more details on these processes under current law). Specifically, these changes prevent detainments in jail for emergency commitments and actively engages the courts and the BHA in the process through a formal petition process, which includes court screenings, evaluation requirements, and discharge planning requirements. Under the bill, any person who files a malicious or false petition for an emergency commitment is subject to criminal prosecution. The bill maintains certain differences between the emergency commitment and mental health hold processes, including different commitment durations.

Competency Evaluations

The Office of Civil and Forensic Mental Health in the Department of Human Services (CDHS) is responsible for providing court-ordered competency evaluations and restoration services for criminal defendants. See this [LCS Issue Brief](#) for more information on the competency process for criminal trials. In the event that an evaluation concludes that the defendant is incompetent to proceed, CDHS must develop a discharge plan and the court may enter orders regarding custody of the defendant. Under the bill, this court order may include an order to participate in mental health treatments identified in the discharge plan.

Mental Health Holds

Under current law, after a person has been discharged from a mental health hold, the facility that held them must attempt a follow-up within 48 hours. The bill extends this period to 72 hours.

Behavioral Health Entity Licensure

Current licensure requirements for behavioral health entities include receiving a certificate of compliance with building regulations from the Division of Fire Prevention and Control in the Department of Public Safety. The bill allows outpatient facilities to receive the certification from a fire department with a certified inspector and exempts providers of telehealth services from the requirement.

Background

A person who poses an imminent danger to themselves or others may be subject to involuntary commitment. There are two distinct processes for involuntary commitment depending on whether the danger appears to stem from a mental illness or substance use. The mental health hold process addresses safety concerns arising from mental health conditions, while the emergency commitment process addresses concerns due to substance use. Both processes have an initial commitment procedure and an extended commitment procedure. The rest of this Background Section discusses the initial commitment procedures. The bill does not impact the extended commitment procedures.

Mental Health Holds

When a person appears to have a mental illness and is either 1) an imminent danger to themselves or others, or 2) is gravely disabled such that they require assistance to meet their needs and avoid significant bodily harm, they may be subject to an emergency mental health hold and taken into protective custody. The term "gravely disabled" does not apply to individuals whose decision-making capabilities are limited solely by the person's developmental disability. This process may be initiated by a certified peace officer, intervening professional, or a court in response to a petition. If the court receives a petition they must conduct a mental health screening.

The person must be held at a BHA-approved treatment facility, if available. If no facility is available, the person may be held an emergency medical facility. Regardless, the person must receive treatment, evaluation, and a discharge plan. A person cannot be held for longer than 72 hours under an initial commitment.

Emergency Commitment

When a person is under the influence of a substance and a clear danger, they may be subject to an emergency commitment and taken into protective custody by a law enforcement or emergency service patrol.

If an application, submitted by law enforcement, physicians, or relatives of the person, is approved by the facility administrator, they must be held at a BHA approved treatment facility. The initial commitment authorizes the facility to hold a person until they are no longer under the influence (no longer than five days). Otherwise, the person may be held at an emergency medical facility or, if they are not a minor, jail for as long as is necessary to prevent injury.

Comparable Crime Analysis

Legislative Council Staff is required to include certain analysis in the fiscal note for any bill that creates a new crime, or that either reclassifies or creates a new factual basis for an existing crime. This section identifies comparable crimes and discusses assumptions on future conviction rates resulting from the bill.

Prior Conviction Data and Assumptions

This bill creates the new criminal offense of maliciously or falsely filing a petition for an emergency commitment. The bill does not classify or specify a penalty for this offense. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of perjury in the first degree as a comparable crime. From FY 2022-23 to FY 2024-25, 4 offenders have been sentenced and convicted for this existing offense. Of the persons convicted, 2 were male and 2 were female. Demographically, 3 were White and 1 was Black/African-American.

Given the low number of convictions for the comparable offense and the fact that the bill does not specify penalties for this new offense, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

State Expenditures

The bill increases state expenditures by \$1.2 million in FY 2026-27 and \$1.1 million in FY 2027-28 and future years. The provisions of the bill affecting emergency commitments and competency evaluations drive costs for the BHA and CDHS, respectively. These costs, paid from the General Fund, are shown in Table 2 and described in the sections below. Additionally, the bill increases workload in the Judicial Department.

Table 2
State Expenditures
All Departments

Department	Budget Year FY 2026-27	Out Year FY 2027-28
Behavioral Health Administration	\$606,180	\$522,869
Department of Human Services	\$616,780	\$574,780
Total Costs	\$1,222,960	\$1,097,649

Behavioral Health Administration

Changes to the emergency commitment process will increase costs in the BHA for staff, legal services, and contracted behavioral health services, as outlined below. These costs are informed by current costs for the mental health hold process, to which the bill aligns the emergency commitment process more closely. These costs are shown in Table 2A below.

Staff

The BHA requires an additional 2.5 FTE for operational oversight of the modified emergency commitment process. This staff will be responsible for licensing, technical trainings, complaint processing, form development, data collection, and reporting.

Legal Services

The BHA will require legal services, which are provided by the Department of Law at a rate of \$138.47 per hour, to support rulemaking in the first year, and to respond to legal actions arising during the commitment process. The fiscal note estimates 900 hours of legal services in the first year and 450 hours in the second and future years.

Behavioral Health Service Contracts

The BHA contracts with behavioral health administrative service organizations (BHASOs) to support behavioral health care coordination in emergency medical facilities. By precluding emergency commitment detainments in jail, the bill will increase the number of people admitted to emergency medical facilities requiring care coordination, which will increase services and costs for BHASOs. The estimated cost of \$200,000 annually is based on 200 additional cases requiring care coordination annually.

**Table 2A
 State Expenditures
 Behavioral Health Administration**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$202,291	\$202,291
Operating Expenses	\$3,200	\$3,200
Capital Outlay Costs	\$21,000	\$0
Legal Services	\$124,623	\$62,312
BHASO Contracts	\$200,000	\$200,000
Centrally Appropriated Costs	\$55,066	\$55,066
FTE – Personal Services	2.5 FTE	2.5 FTE
FTE – Legal Services	0.5 FTE	0.3 FTE
Total Costs	\$606,180	\$522,869
Total FTE	3.0 FTE	2.8 FTE

Department of Human Services

CDHS requires 6.0 FTE to expand the discharge plans they develop for criminal defendants who are found incompetent to proceed. Currently, discharge plans may recommend mental health treatments and provide a list of potential providers. The fiscal note assumes that, under the bill, if these plans recommend mental health treatments, they will need to include a specific mental health treatment plan with an available provider so that, if ordered by the court, a defendant is able to immediately begin treatment. The fiscal note estimates that this will increase the time to develop a discharge plan by 50 percent. Costs for these additional staff are shown in Table 2B.

**Table 2B
 State Expenditures
 Department of Human Services**

Cost Component	Budget Year FY 2026-27	Out Year FY 2027-28
Personal Services	\$439,244	\$439,244
Operating Expenses	\$7,680	\$7,680
Capital Outlay Costs	\$42,000	\$0
Centrally Appropriated Costs	\$127,856	\$127,856
Total Costs	\$616,780	\$574,780
Total FTE	6.0 FTE	6.0 FTE

Judicial Department

By adding a process to petition the court regarding emergency commitments, the bill potentially increases workload and costs for the Judicial Department. Specifically, costs may be incurred for court-appointed council in these cases and for additional court time to hear these petitions. Generally, it is assumed the number of cases using the court petition process will be minimal and can be managed by the court 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. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

Effective Date

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

State Appropriations

For FY 2026-27, the bill requires the following General Fund appropriations:

- \$551,114 to the Behavioral Health Administration, and 2.5 FTE; of this amount, \$124,623 and an additional 0.5 FTE will be reappropriated to the Department of Law; and
- \$488,924 to the Department of Human Services, and 6.0 FTE.

State and Local Government Contacts

Behavioral Health Administration	Law
Counties	Public Health and Environment
Human Services	Regulatory Agencies
Judicial	