



Legislative  
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**FISCAL NOTE**

<b>Drafting Number:</b> LLS 18-1253	<b>Date:</b> April 26, 2018
<b>Prime Sponsors:</b> Sen. Gardner; Lambert Rep. Lee; Young	<b>Bill Status:</b> Senate Judiciary
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**Bill Topic:** REDIRECTION CRIMINAL JUSTICE BEHAVIORAL HEALTH

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates local programs in each judicial district to redirect individuals with behavioral health conditions involved in the criminal justice system for low-level offenses into community-based treatment programs. It reduces state and local government revenue, increases state and local government expenditures, and may reduce state and local government expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2018-19, the bill requires an appropriation of \$1,359,752 to the Judicial Department.

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

**Table 1  
State Fiscal Impacts Under SB 18-249**

		FY 2018-19	FY 2019-20
<b>Revenue</b>		-	-
<b>Expenditures</b>	General Fund	\$1,359,752	\$2,651,419
	Centrally Appropriated	\$81,719	\$146,883
	<b>Total</b>	<b>\$1,441,471</b>	<b>\$2,798,302</b>
	<b>Total FTE</b>	<b>0.9 FTE</b>	<b>1.0 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

This bill requires each judicial district to develop and administer an "alternative redirection" program (program) for individuals with behavioral health conditions involved with the criminal justice system for low-level offenses. The bill defines a low-level offense as any misdemeanor or petty offense, except for those offenses that trigger the rights for crime victims and witnesses, and any additional offenses that all stakeholders in the judicial district agree may be categorized as such. The goals of local programs, which are to be in place by January 1, 2019, are to reduce recidivism, redirect people into community-based behavioral health treatment, reduce costs associated with incarceration, and decrease the need for criminal justice involvement.

**Program development.** The chief judge of each judicial district is responsible for developing a local program. Each judicial district must develop its program and eligibility criteria with input from the stakeholders in the judicial district. In creating the program, the chief judge is required to:

- convene stakeholder meetings;
- contract with local community behavioral health providers, such as community mental health centers, that are able to provide a continuum of services and to provide an adequate number of dedicated redirection specialists; and
- administer the program once it is implemented.

Each judicial district must identify existing programs and resources that may be available in the community. The State Court Administrator, Department of Health Care Policy and Financing, and Office of Behavioral Health in the Department of Human Services are required to collaborate to ensure that behavioral health services are coordinated and efficient. Local treatment providers must comply with any reporting requirements of the program, use noncoercive treatment methods, and maintain the confidentiality of any statements made during treatment.

**Screening and evaluation.** In designing its program, each judicial district must work collaboratively with local community behavioral health providers and local jails and detention facilities to ensure that each individual who is arrested and brought to such facilities is screened using a standardized, evidence-based screening tool. Facility personnel must prescreen individuals who meet the criteria of the bill.

Within 48 hours after arrest, but prior to the individual's first court appearance, and with the individual's consent, redirection specialists in the Judicial District must evaluate the individual to determine eligibility for redirection using specified criteria. The redirection specialist must notify the court and other required parties of the results of the evaluation and any recommendation for redirection. All information related to this process is confidential and may not be released except in specified circumstances.

At any time during the prosecution of an eligible criminal case, any court officer, including prosecutors, judges, and defense counsel, may request that a redirection specialist conduct an evaluation or screening for any individual for redirection purposes.

**Court procedures.** After receiving the redirection specialist's recommendation, the court must determine whether to refer the case for redirection, but may not do so if the individual objects. If the prosecution objects to a redirection order, the court must find in writing and by clear and convincing evidence that redirection is necessary and appropriate before ordering redirection. If the court orders redirection, the criminal charges against the individual must be dismissed in the

interests of justice and the individual must be released if he or she is in custody. No further action is to be taken unless the redirected individual is convicted of a new criminal offense that carries a possible term of incarceration within 6 months or fails to initiate treatment.

### **State Revenue**

Beginning in FY 2018-19, the bill will reduce state revenue from criminal fees and fines credited to the Judicial Department if more individuals are redirected into community-based behavioral health treatment rather than being convicted of criminal offenses. Fine penalties for most misdemeanors and petty offenses range from \$50 to \$5,000 depending on the offense. Fees are also imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, victim compensation, and late fees, among others. Because the courts have the discretion of incarceration, imposing a fine, or both, and it is unknown how many offenders will be redirected, the precise impact to state revenue cannot be determined.

### **TABOR Impact**

This bill is expected to reduce state revenue from criminal fines and fees, which will reduce the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. Since the bill reduces the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will increase by an identical amount. These amounts have not been estimated. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

### **State Expenditures**

This bill increases state General Fund expenditures by \$1.4 million in FY 2018-19 and by \$2.8 million in FY 2019-20 and future years. A total of 1.0 FTE are required in the Judicial Department. The bill may also result in future cost savings. Table 2 and the discussion that follows present the costs of the bill.

**Table 2**  
**Expenditures Under SB 18-249**

	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Judicial Department</b>		
Personal Services	\$79,376	\$86,593
Operating Expenses and Capital Outlay Costs	\$5,653	\$950
Contracted Redirection Specialist FTE	\$1,130,502	\$2,275,435
Contracted FTE Travel	\$144,221	\$288,441
Centrally Appropriated Costs*	\$81,719	\$146,883
FTE – Personal Services	0.9 FTE	1.0 FTE
<b>Total Cost</b>	<b>\$1,441,471</b>	<b>\$2,798,302</b>
<b>Total FTE</b>	<b>0.9 FTE</b>	<b>1.0 FTE</b>

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

**Judicial Department.** The bill affects several areas within the Judicial Department as described below.

*Court liaison program administration.* The bill requires 1.0 FTE for a courts program analyst position to administer the program, including drafting program policies and procedures, and overseeing overall implementation and operation of the program. This position is assumed to start on July 1, 2018. FY 2018-19 salary costs are prorated to account for the General Fund paydate shift.

*Contract redirection specialists.* The fiscal note assumes that program funding will be used to hire a total of 29.0 contract FTE to serve the state's 22 judicial districts. Some districts will require multiple positions to cover the caseload volume and geographic area. These positions will be contracted to start as of January 1, 2019. Travel and mileage costs are also included for these positions and are based on travel by existing court staff.

*Trial courts.* The bill may increase court time related to criminal cases when the district attorney objects to a redirection order. The bill is also expected to reduce trial court workload as individuals are redirected into community-based behavioral health treatment and charges are dismissed. The chief judge of each judicial district will have increased workload to assist in the development of the redirection program.

*Resource and cost savings.* To the extent that redirection specialists identify behavioral health resources in the community that would have otherwise been paid for by the Judicial Department, cost savings will occur. If fewer individuals are convicted of a misdemeanor and therefore not sentenced to probation, workload for the Probation Division will decrease. Finally, if fewer individuals proceed to trial, workload and costs for agencies that provide representation to indigent offenders, including the Office of the State Public Defender and Office of the Alternate Defense Counsel, will be reduced. Because it is not known how many individuals will be redirected into community-based behavioral health treatment in lieu of the criminal justice system, these impacts have not been estimated. If savings are substantial, reductions in appropriations will be requested through the annual budget process by the affected agency.

**Other agencies.** The Departments of Health Care Policy and Financing and Human Services will have increased workload to coordinate with stakeholders to ensure that behavioral health services are coordinated and efficient. This workload increase can be accomplished within the existing appropriations of each department.

## **Local Government**

This bill affects local governments in several ways, as described below. The exact impact to any particular jurisdiction will depend on the amount of work required to develop the local redirection program and the number of individuals who participate in it.

**District attorneys.** The bill may increase district attorney workload to participate in the development of the program, to coordinate with redirection specialists, and to file court motions when the district attorney objects to a potential redirection order. Conversely, workload and costs will decrease for each individual that is redirected out of the criminal justice system prior to trial. Because it is not known how many individuals will be redirected into community-based behavioral health treatment in lieu of the criminal justice system, these impacts have not been estimated.

**Denver County Court.** For misdemeanors and petty offenses committed in Denver County, criminal fine and court fee revenue is collected by Denver County Court, and probation supervision is provided by the court. To the extent that this bill results in more individuals redirected out of the criminal justice system, revenue and workload will decrease. Because the court has discretion when sentencing misdemeanors and petty offenses, the precise reduction to Denver County has not been estimated. Please refer to the State Revenue section above for information about fine penalty ranges and court fees.

**County jails.** This bill increases workload and costs for jail and detention facility personnel to participate in the development of the program, and to implement and administer screening tools for individuals that meet the criteria in the bill. In addition, under current law, a court may sentence an offender to jail for a class 1 petty offense and most misdemeanors. The range of the term of incarceration generally ranges from 0 to 18 months. This bill may result in fewer individuals being convicted of these offenses and sentenced to a term of incarceration in county jail. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

**Effective Date**

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

**State Appropriations**

For FY 2018-19, the bill requires an appropriation of \$1,359,752 General Fund and an allocation of 0.9 FTE to the Judicial Department.

**State and Local Government Contacts**

Counties  
Health Care Policy and Financing  
Judicial  
Municipalities  
Public Safety

District Attorneys  
Human Services  
Local Affairs  
Public Health and Environment  
Sheriffs