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FISCAL NOTE

Drafting Number: LLS 19-0416	Date: February 26, 2019
Prime Sponsors: Sen. Lee; Gardner	Bill Status: Senate Judiciary
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Bill Topic: JUVENILE JUSTICE REFORM

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 establishes the Juvenile Justice Reform Committee and requires it to establish a number of assessment tools for detention, probation, mental health services, and parole for juveniles in the criminal justice system, and makes other changes to the Juvenile Diversion Program and juvenile probation. The bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: The bill requires appropriations of \$249,249 for the current FY 2018-19 and \$3.7 million for FY 2019-20 to multiple state agencies. See the State Appropriations section for more detail.

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

Table 1
State Fiscal Impacts Under SB 19-108

		FY 2018-19 (Current Year)	FY 2019-20	FY 2020-21
Revenue		-	-	-
Expenditures	General Fund	\$249,249	\$3,700,944	\$9,902,205
	Centrally Appropriated	\$25,981	\$34,627	\$64,534
	Total	\$275,230	\$3,735,571	\$9,966,739
	Total FTE	1.6 FTE	22.6 FTE	24.6 FTE
Transfers		-	-	-
TABOR Refund		-	-	-

Summary of Legislation

This bill makes several changes to the juvenile justice system. Specifically, this bill requires that a variety of screening and assessment tools be established and used to determine the placement of youths, services provided, eligibility for diversion, and other matters in the juvenile justice system. It also requires that a statewide system of graduated responses and incentives for juvenile parole violations and standards for juvenile probation supervision be established. Specific changes in the bill are discussed in more detail below.

Juvenile Justice Reform Committee. The bill creates the 25-member Juvenile Justice Reform Committee (JJRC), which includes the following members:

- the Governor or his designee;
- 4 members of the General Assembly;
- 2 judges appointed by the Chief Justice of the Colorado Supreme Court;
- the director of the Division of Youth Services (DYS) in the Department of Human Services (DHS);
- the director of the Commission of Criminal and Juvenile Justice (CCJJ);
- the executive director of the DHS;
- the state court administrator; and
- 14 other members appointed by the Governor representing various constituencies within the juvenile justice system.

The committee must meet by October 30, 2019, and its duties include adopting a risk and needs assessment tool, selecting a mental health screening tool, selecting a risk screening tool for the juvenile diversion program, selecting a vendor to train participants in using these screening tools, establishing common policies for data collection, establishing criteria for probation conditions, and making recommendations for changing any rules, policies, or laws. The three assessments and tools to be selected by the JJRC are described below.

- *Risk and needs assessment tool.* The risk and needs assessment tool is for use by the courts, the DHS, and juvenile probation departments when making decisions concerning commitment to a DHS facility, supervision level, case and reentry plans, placement in residential or treatment facility, conditions of probation, and parole.
- *Mental health screening tool.* The mental health screening tool is a short, validated screening tool for identifying youths who may have mental health needs, whether a full mental health evaluation is required, and if additional mental health services are necessary. The tool must be used in the courts, the pre-adjudication services program in the DHS, and the juvenile diversion program in the Department of Public Safety (DPS) to determine the need for drug testing and other mental health services.
- *Diversion risk assessment.* The diversion risk assessment tool is a tool for identifying a juvenile's risk of re-offending and eligibility to participate in a diversion program. The tool must be used by district attorneys when a juvenile is referred to a diversion program operated by the DPS. The tool will inform the eligibility of the juvenile in the program, the level of supervision necessary, the length of supervision, and whether any other services are warranted.

Length of stay matrix. The DHS, in consultation with the JJRC, must develop a length of stay matrix for determining when juveniles are eligible to be released from the custody of the DYS. The matrix must be based on a number of different factors including the risk of re-offending, as determined by the risk and needs assessment tool.

Detention screening instrument. By January 1, 2021, the bill requires the existing Working Group for Criteria for the Placement of Juvenile Offenders to develop or adopt a research-based detention screening tool. The detention screening tool must be used by the DYS to determine if a juvenile should be placed in detention or in an alternative sentencing placement. The working group must also create a plan to train screening teams on how to use the instrument and develop a plan on how DYS will collect and report data to the General Assembly on the use of detention.

Detention and alternative sentencing. After two years, the working group must review data collected on the use of alternative sentences, and make adjustments to the formula used to allocate funding for alternative sentencing programs to each judicial district. The working group must also develop an affidavit for use by parents or guardians to advise parents on certain information concerning detention or alternative sentencing and that collects certain information from these relatives.

Juvenile Diversion Program. Under current law, the CCJJ can contract with a governmental or non-governmental agency to administer the Juvenile Diversion Program within the DPS. Instead, this bill requires the CCJJ to allocate money to each judicial district and for each judicial district to contract with governmental and non-governmental agencies to operate local diversion programs. The CCJJ must establish a formula to allocate money to each judicial district, establish data collection requirements, provide technical assistance to administering agencies, and provide reports on local programs to the General Assembly. The bill also requires district attorneys to use the diversion risk assessment tool, selected by the JJRC, to determine if a juvenile is eligible for diversion.

Probation. The bill makes a number of changes to juvenile probation. First, the bill requires that any probation conditions be customized to each juvenile and removes certain minimum standards for probation prohibitions, such as no consumption of alcohol or controlled substances without a prescription and the requirement that a juvenile attend school. In addition, the court must consider the results of the risk and needs assessment tool when deciding on additional conditions of probation. Before January 1, 2021, the state court administrator must establish rules to develop a statewide system of structured community-based graduated responses, which is an accountability-based series of sanctions and incentives designed to respond to a juvenile's violation of probation and to guide probation officers in determining how best to motivate changes to a juvenile's behavior. If there is a violation of probation, the probation officer must report the violation only with approval from the chief probation officer and after the graduated responses were followed. The bill also requires the probation officer to issue a summons to the juvenile when there is a probation violation, rather than a warrant.

Detention hearings. The bill also restricts the ability of the courts to remove a juvenile from the custody of a parent unless the detention screening tool is conducted and specified findings are made. The bill limits which juveniles may be placed in detention.

Background

Currently, there are 18 diversion programs in 15 judicial districts serving about 1,400 youths in the state. According to a 2016 survey by the Council of State Governments, there may be up to 2,900 total juveniles statewide who could qualify for the diversion program.

Assumptions

The fiscal note makes the following assumptions:

- **JJRC committee.** The JJRC will meet as a full committee four times per year. The committee will establish six subcommittees to study the various issues. Members of the General Assembly will only serve on the full committee.
- **Vendor selection.** In July 2020, the JJRC will select a vendor to identify, adopt, and conduct training on the various tools.
- **Tool selection.** In January 2021, the risk and needs assessment tool, mental health screening tool, the diversion risk assessment tool, and the detention screening instrument will be selected and work will begin to incorporate these tools.
- **Response standards and rules.** In January 2021, the state court administrator will establish graduated response standards for juvenile probation and rules for probation officers, and will begin incorporating these changes.

State Revenue

To the extent that the bill results in more youths sentenced to probation, rather than committed to the custody of the DYS, revenue from probation fees to the Judicial Department will increase. Because it is not known how many cases will be affected by the bill, the revenue increase has not been estimated. Probation fees are subject to the state's TABOR limit.

State Expenditures

The bill increases state expenditures by \$275,230 and 1.6 FTE in the current FY 2018-19, \$3.7 million and 22.6 FTE in FY 2019-20, and \$10.0 million and 24.6 FTE in FY 2020-21. These costs, which are paid from the General Fund, are in the Judicial Department, the DHS, the DPS, and the Legislative Department. These impacts are summarized in Table 2 and discussed below.

Table 2
Expenditures Under SB 19-108

Cost Components	FY 2018-19 <i>(Current Year)</i>	FY 2019-20	FY 2020-21
Judicial Department			
Personal Services	\$112,054	\$1,385,402	\$1,405,779
Operating Expenses and Capital Outlay Costs	\$97,195	\$19,380	\$19,570
Information Technology Costs	-	-	\$1,545,840
Centrally Appropriated Costs*	\$25,981	\$326,332	\$331,147
FTE – Personal Services	1.6 FTE	20.3 FTE	20.6 FTE
Judicial Department (Subtotal)	\$235,230	\$1,731,114	\$3,302,336
Department of Human Services			
Personal Services	-	\$93,954	\$140,931
Operating Expenses and Capital Outlay Costs	-	\$10,741	\$2,375
Assessment Tools Development and Licensing	-	\$30,000	\$305,000
JJRC Implementation Vendor	-	\$100,000	-
Data and Reporting Requirements	\$40,000	\$25,000	\$158,857
Assessment Tools Maintenance	-	-	\$4,199,160
Centrally Appropriated Costs*	-	\$23,588	\$34,939
FTE – Personal Services	-	1.7 FTE	2.5 FTE
DHS (Subtotal)	\$40,000	\$283,283	\$4,841,262
Department of Public Safety			
Personal Services	-	\$37,922	\$118,239
Operating Expenses and Capital Outlay Costs	-	\$3,392	\$6,223
Diversion Program Expansion	-	\$1,519,936	\$1,519,936
Training and Technical Assistance	-	\$32,096	\$32,096
Evaluation	-	\$113,000	\$113,000
Centrally Appropriated Costs*	-	\$10,920	\$29,437
FTE – Personal Services	-	0.6 FTE	1.5 FTE
DPS (Subtotal)	-	\$1,717,266	\$1,818,931

Table 2
Expenditures Under SB 19-108 (Cont.)

Cost Components	FY 2018-19 <i>(Current Year)</i>	FY 2019-20	FY 2020-21
Legislative Department			
Per Diem	-	\$1,329	\$1,772
Travel Cost	-	\$2,460	\$3,280
Centrally Appropriated Costs*	-	\$119	\$158
Legislative Department (Subtotal)	-	\$3,908	\$5,210
Total	\$275,230	\$3,735,571	\$9,967,739
Total FTE	1.6 FTE	22.6 FTE	24.6 FTE

* Except for centrally appropriated costs in the Judicial Department in FY 2019-20 and FY 2020-21, centrally appropriated costs are not included in the bill's appropriation.

Judicial Department. The bill increases expenditures in the Judicial Department by \$235,230 and 1.6 FTE in the current FY 2018-19, \$1.7 million and 20.3 FTE in FY 2019-20, and \$3.3 million and 20.6 FTE in FY 2020-21. These impacts are discussed below.

Personal services. Starting in the current FY 2018-19, the bill requires 14.5 FTE for probation officers to conduct risk and needs evaluations on every juvenile sentenced to probation. It is assumed that 6,042 cases will require an evaluation and that each evaluation will take 5 hours. This is based on the number of juveniles on probation without a pre-sentence investigation as of writing. Based on the staffing needs of the probation office, it is further assumed that 2.4 FTE for probation supervisors and 2.9 FTE for staff assistants are necessary. Starting in October 2019, to coincide with the start of the JJRC, the department will also need 0.8 FTE for a policy analyst to participate and advise the various committees referenced in this bill. Current year costs are prorated for a May 1 start date. The General Fund paydate shift applies to all positions in their initial year. Staff costs also include operating and capital outlay costs.

Information technology costs. Costs will increase in the Judicial Department to update software systems to work with the new assessment tools required by the bill and to modify the probation and case management systems. While the exact cost to update IT systems will depend on which tools are selected, the fiscal note preliminarily estimates a total IT cost of \$1.5 million dollars in FY 2020-21. This estimate is based on 6,840 hours of total work with a rate of \$106 for a software engineer and \$120 per hour for a business analyst.

Other evaluation and planning costs. Costs and workload in the Judicial Department will increase in future years to conduct mental health evaluations, complete case plans on all minimum risk juveniles on probation, and provide diversion treatment and services. These costs have not been estimated at this time.

Trial courts. Starting in the current FY 2018-19, to the extent the bill leads to increased workload for the courts to make additional findings, workload will increase. Workload may also decrease if more juveniles are placed in diversion programs. Overall, any change in workload is expected to be minimal.

Independent judicial agencies. Starting in the current FY 2018-19, workload will increase to the Office of the Public Defender, the Alternative Defense Counsel, and the Office of the Child Representative to provide training for staff, contract attorneys, and guardians ad litem on the changes created under this bill. The fiscal note assumes that the increase in workload can be accomplished within existing appropriations.

Department of Human Services. The bill will increase costs in the DHS by \$40,000 in the current FY 2018-19, \$283,283 and 1.7 FTE in FY 2019-20, and \$4.8 million and 2.5 FTE in FY 2020-21.

Personal services. Starting in FY 2019-20, the bill requires 2.5 FTE for policy analyst staff to assist the JJRC in their duties, coordinate with other agencies on data collection and analysis, and work on the various reports required by the bill. Staff costs include operating and capital outlay costs and are prorated in FY 2019-20 for an October 1 start date, to coincide with the start of the JJRC, and the General Fund paydate shift.

Assessment tools development and licensing. The bill will increase costs by \$30,000 in FY 2019-20 and \$305,000 in FY 2020-21 in order to develop and obtain licenses for the various assessment tools outlined in the bill. For FY 2019-20, it is estimated that \$30,000 is needed for the JJRC to contract with a consultant in order to develop a risk and needs assessment tool. For FY 2020-21, it is estimated that \$180,000 is needed to license a mental health assessment tool and to incorporate it into the DYS web application for juvenile intake, and \$125,000 is needed to hire a consultant and license a new detention screening tool.

JJRC implementation vendor. In FY 2019-20 only, the DHS requires \$100,000 to contract with a vendor that will provide expertise on tool selection and implementation, as required by the bill.

Data and reporting requirements. The bill increases costs by \$40,000 in the current FY 2018-19, \$25,000 in FY 2019-20, and \$158,857 in FY 2020-21 for data analysis and reporting. These costs are based on similar reporting for other existing reports.

Assessment tool integration and maintenance. Beginning in FY 2021-22, costs in the Office of Information Technology will increase to integrate each of the assessment tools with other systems in the DYS. The fiscal note estimates that these costs will be \$4.2 million for initial development and \$648,584 for ongoing maintenance in outyears. This estimate is based on 28,568 hours of contract work at various rates between \$120 to \$165 per hour. The exact implementation cost will depend on which assessment tools are chosen. These costs are paid using funds reappropriated from the DHS.

Department of Public Safety. The bill will increase expenditures in the DPS by \$1.7 million and 0.6 FTE in FY 2019-20 and \$1.8 million and 1.5 FTE in FY 2020-21, as described below.

Personal services. Starting in FY 2019-20, the DPS requires 0.6 FTE for staff to administer grants to local diversion programs in additional judicial districts. In FY 2020-21, an additional 1.0 FTE is needed for staff to evaluate the diversion risk assessment tool and to assist diversion programs in using the tool. Staffing costs include operating and capital outlay costs. The General Fund paydate shift applies to all positions in their initial year.

Diversion program expansion. Starting in FY 2019-20, costs for the diversion program will increase by \$1.5 million to expand the program to an additional seven judicial districts to an estimated population of 1,496 juveniles. The cost increase is estimated on a per capita basis using current program costs. These costs will be paid by the Judicial Department using funds reappropriated from the DPS.

Training and technical assistance. The bill will increase costs by \$32,096 per year, starting in FY 2019-20, to provide annual training to district attorneys and new program staff as well as provide on-site technical assistance for the diversion program. These costs are based on current costs for the CCJJ.

Evaluation. The bill will increase costs by \$113,000 per year starting in FY 2019-20 in order to contract with a vendor and provide an evaluation of each diversion program across the state. This cost is based on expanding the current evaluation to additional judicial districts.

Legislative Department. The bill will increase costs to the Legislative Department by \$3,908 in FY 2019-20 and by \$5,210 in FY 2020-21 and future years to reimburse legislators for per diem and expenses related to their service on the JJRC. This analysis assumes that members will serve only on the full committee, which will meet three times in FY 2019-20 and four times in FY 2020-21 and future years.

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, except in cases where the bill results in an increase of 20 FTE or more. These costs, which include employee insurance, supplemental employee retirement payments, and leased space in some cases, are shown in Table 3 below.

Table 3
Centrally Appropriated Costs Under SB 19-108

Cost Components	FY 2018-19 <i>(Current Year)</i>	FY 2019-20	FY 2020-21
Judicial Department			
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$15,963	\$202,470	\$205,463
Supplemental Employee Retirement Payments	\$10,018	\$123,863	\$125,684
Judicial Department (Subtotal)	\$25,981	\$326,333*	\$331,147
Department of Human Services			
Employee Insurance (Health, Life, Dental, and Short-term Disability)	-	\$15,188	\$22,339
Supplemental Employee Retirement Payments	-	\$8,400	\$12,600
DHS (Subtotal)	\$0	\$23,588	\$34,939
Department of Public Safety			
Employee Insurance (Health, Life, Dental, and Short-term Disability)	-	\$5,946	\$14,906
Supplemental Employee Retirement Payments	-	\$3,390	\$10,571
Leased Space	-	\$1,584	\$3,960
DPS (Subtotal)	\$0	\$10,920	\$29,437

Table 3
Centrally Appropriated Costs Under SB 19-108 (Cont)

Cost Components	FY 2018-19 <i>(Current Year)</i>	FY 2019-20	FY 2020-21
Legislative Department			
Employee Insurance (Health, Life, Dental, and Short-term Disability)	-	-	-
Supplemental Employee Retirement Payments	-	\$119	\$158
Legislative Department (Subtotal)	-	\$119	\$158
Total	\$25,981	\$355,986	\$381,150

* Pursuant to fiscal note common policies, centrally appropriated costs for bills involving more than 20 FTE are appropriated in the bill rather than through the annual budget process.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

This bill increases costs and workload to local government entities as described below.

District attorneys. The bill will increase costs and workload to district attorney offices throughout the state. It is estimated that 0.8 FTE is needed statewide for an assistant district attorney staff to serve on the various boards required by the bill, estimated to cost approximately \$100,000. In addition, costs will increase for district attorney offices to operate diversion programs, use the diversion risk assessment tool and mental health screening tool, and to collect data as required by the bill. It is estimated that costs for a district attorney's office to operate a diversion program could range between \$60,000 and \$1.5 million, depending on the number of programs in the judicial district and the number of participants. The Colorado District Attorney Council will also need to conduct trainings at an estimated cost of \$3,000. Finally, workload and costs will increase to the extent there are longer hearings due to the higher standard to send a juvenile to detention and for the court to consider the results of the mental health screening tool.

County departments of human services. To the extent more children are placed in the custody of a county department of human or social services, costs and workload to that county will increase. However, to the extent the bill encourages more placement of youths with kin, rather than in another form of out-of-home placement, workload and costs will decrease.

Denver County Court. Costs and workload will increase for Denver County Court, funded and operated by the City and County of Denver, to the extent the bill increases trial court workload related to required findings of fact and other matters. In addition, workload may decrease if more juveniles are sentenced to diversion rather than other sentences requiring greater ongoing oversight. Overall, any change in workload is expected to be minimal.

Effective Date

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

State Appropriations

For the current FY 2018-19, this bill requires the following General Fund appropriations:

- \$209,249 to the Judicial Department and an allocation of 1.6 FTE; and
- \$40,000 to the Department of Human Services.

For FY 2019-20, this bill requires the following General Fund appropriations:

- \$1,731,114 to the Judicial Department and an allocation of 20.3 FTE;
- \$259,695 to the Department of Human Services and an allocation of 1.7 FTE;
- \$1,706,346 to the Department of Public Safety and an allocation of 0.6 FTE; of this amount, \$1,519,936 is reappropriated to the Judicial Department; and
- \$3,789 to the Legislative Department.

State and Local Government Contacts

Counties	District Attorneys	Governor
Human Services	Information Technology	Judicial
Law	Legislative Council Staff	Legislative Legal Services
Municipalities	Public Safety	