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SB 19-108

**REVISED
FISCAL NOTE**

(replaces fiscal note dated April 8, 2019)

Drafting Number: LLS 19-0416
Prime Sponsors: Sen. Lee; Gardner
Rep. Michaelson Jenet;
Soper

Date: April 25, 2019
Bill Status: House Judiciary
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Bill Topic: JUVENILE JUSTICE REFORM

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input 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 makes other changes to the juvenile justice system. The bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2019-20, the bill requires and includes an appropriation of \$574,913 to multiple state agencies.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under SB 19-108**

		FY 2019-20	FY 2020-21*
Revenue		-	-
Expenditures	General Fund	\$574,913	at least \$346,940
	Centrally Appropriated	\$13,827	at least \$13,613
	Total	\$588,740	at least \$360,553
	Total FTE	0.8 FTE	0.8 FTE
Transfers		-	-
TABOR Refund		-	-

* FY 2020-21 costs will be addressed through the annual budget process once the Juvenile Justice Reform Committee and Working Group for Criteria for the Placement of Juvenile Offenders meet and make formal recommendations.

Summary of Legislation

This bill makes several changes to the juvenile justice system. The Juvenile Justice Reform Committee is created to develop a variety of screening and assessment tools that will be used to determine the placement of youths, services provided, eligibility for diversion, and other matters in the juvenile justice system. The bill 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 26-member Juvenile Justice Reform Committee (JJRC), which includes the following members:

- the Governor or his designee;
- 4 members of the General Assembly;
- 2 judges or magistrates 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 Division of Criminal and Juvenile Justice (DCJJ);
- the executive director of the DHS;
- the state court administrator;
- 2 state prosecutors with experience in juvenile matters;
- 10 other members appointed by the Governor representing various constituencies within the juvenile justice system; and
- 3 persons who oversee juvenile probation, appointed by the Chief Justice of the Colorado Supreme Court.

The committee must begin meeting by June 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 appropriations, rules, policies, or laws. Any reports required of the JJRC are contingent upon the receipt of reasonable and necessary appropriations. The three assessments and tools to be selected by the JJRC are described below. The committee is scheduled to be repealed on September 1, 2022, after a sunset review.

- *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, and conditions of probation and parole. The JJRC must select a tool and calculate the cost of collecting and reporting the data required and report that cost to the Office of State Planning and Budgeting by September 1, 2019.
- *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. The tool may be one already in use by the state.

- *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 by January 1, 2021. 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 tool. 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 and adds additional members to the working group. 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. Before reporting can begin, the DYS must request and receive necessary appropriations through the annual budget process.

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, by January 1, 2021, 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 DCJJ can contract with a governmental or non-governmental agency to administer the Juvenile Diversion Program within the DPS. This bill requires the DCJJ to allocate money for the purposes of juvenile diversion in each judicial district and may contract with governmental and non-governmental agencies to operate local diversion programs. The DCJJ 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.

Juvenile probation. The bill makes a number of changes to juvenile probation. First, the bill requires that any probation condition 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 restricts the ability of the courts to remove a juvenile from the custody of a parent unless the detention screening tool is used and specified findings are made. The bill also limits which juveniles may be placed in detention.

Data and 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 various issues as required by the bill. 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 September 2019, the JJRC will select the risk and needs assessment tool. In January 2021, the 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 and begin reporting.
- *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.
- *Juvenile diversion expansion.* Currently, there are 18 juvenile 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. The fiscal note assumes that 1,496 juveniles in 7 judicial districts will be served by the juvenile diversion expansion.

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 \$588,740 and 0.8 FTE in FY 2019-20 and \$360,543 and 0.8 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.

In addition to these costs, the DHS and the Judicial Department will have additional IT-related and reporting costs in FY 2020-21 that will depend on the exact tools selected and the exact data and reports requested by the JJRC or DYS. The bill requires these costs to be addressed through the annual budget process once further information is known. While not included in the fiscal note estimate, costs to meet the bill's requirements were initially estimated at approximately \$5.5 million in FY 2020-21.

**Table 2
 Expenditures Under SB 19-108**

Cost Components	FY 2019-20	FY 2020-21
Judicial Department		
Personal Services	\$63,040	\$61,129
Operating Expenses and Capital Outlay Costs	\$5,558	\$759
Centrally Appropriated Costs*	\$13,629	\$13,455
FTE – Personal Services	0.8 FTE	0.8 FTE
Judicial Department (Subtotal)	\$82,227	\$75,343
Department of Human Services		
Assessment Tools Development and Licensing	\$500,000	\$180,000
JJRC Implementation Vendor	-	\$100,000
DHS (Subtotal)	\$500,000	\$280,000
Legislative Department		
Per Diem	\$2,215	\$1,772
Travel Cost	\$4,100	\$3,280
Centrally Appropriated Costs*	\$198	\$158
Legislative Department (Subtotal)	\$6,513	\$5,210
Total	\$588,740	\$360,553
Total FTE	0.8 FTE	0.8 FTE

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

Judicial Department. The bill increases expenditures in the Judicial Department by \$82,227 and 0.8 FTE in FY 2019-20, and \$75,343 and 0.8 FTE in FY 2020-21. The bill will also increase workload beginning in the current FY 2018-19. These impacts are discussed below.

- *Personal services.* Starting in FY 2019-20, the department will need 0.8 FTE for a policy analyst to participate and advise the various committees referenced in this bill. FY 2019-20 costs reflect the General Fund paydate shift. Staff costs also include standard operating and capital outlay expenses.
- *Information technology costs.* Starting in FY 2020-21, costs may increase in the Judicial Department to update software systems to work with the new assessment tools and to report data that is selected by the JJRC. Because the exact cost to update IT systems will depend on which tools are selected and the tool that is selected may be an existing tool, the bill requires the department to request funding through the annual budget process. Preliminarily, and for informational purposes only, IT cost of \$1.1 million may be incurred in FY 2020-21, assuming 4,840 hours of total work at a rate of \$106 for a software engineer and \$120 per hour for a business analyst.

- *Other evaluation, planning, and future 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. In addition, more probation FTE may be required to provide more assessments to juveniles on probation. Because it is unknown what assessments will be required by the JJRC, the department will request funding through the annual budget process once more guidelines have been provided.
- *Trial courts.* Starting in the current FY 2018-19, to the extent the bill causes 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's 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 \$500,000 in FY 2019-20, and at least \$280,000 in FY 2020-21.

- *Assessment tools development and licensing.* The bill will increase costs by \$500,000 in FY 2019-20 and \$180,000 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 \$500,000 is needed for the JJRC to purchase and license a risk and needs assessment tool, contract with a consultant to adopt the tool for use in the state, and to implement the tool statewide. 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. Lastly, the bill requires the Working Group to request changes to appropriations before fully implementing the new detention screening tool. For informational purposes, the fiscal note estimates that it will cost \$100,000 to hire a consultant to develop a new detention screening tool. The fiscal note assumes that the department will utilize the annual budget process to cover any costs associated with developing and implementing this tool.
- *JJRC implementation vendor.* In FY 2020-21 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.* Because the bill requires the JJRC and the DYS to request appropriations through the annual budget process before reporting can begin, these costs have not been included. However, for informational purposes, the fiscal note estimates reporting costs at \$148,000 to create the various reports in the bill and 2.3 FTE to coordinate with other agencies on data collection and analysis and to work on the various reports. These costs are based on similar reporting for other existing reports and are reappropriated to the Office of Information and Technology (OIT). In addition, costs will increase in FY 2020-21 to collect data and to create reports that the JJRC and the Working Group for Criteria for the Placement of Juvenile Offenders require.

- *Assessment tool integration and maintenance.* Beginning in FY 2021-22, costs in the Office of Information Technology (OIT) will increase to integrate each of the assessment tools with other systems in the DYS. OIT will request funding through the annual budget process once more guidance has been provided by the JJRC. For informational purposes, 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. These costs are typically reappropriated to the OIT 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. These costs are included in Senate Bill 19-207; therefore, no appropriation is required through this bill.

- *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, and all positions have been prorated by the General Fund pay date shift 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. The cost increase is estimated on a per capita basis using current program costs. The DPS will allocate the money for use in each judicial district.
- *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 DCJJ.
- *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 \$6,513 in FY 2019-20 and \$5,210 in FY 2020-21 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 one time in the current FY 2018-19, and four times per year in FY 2019-20 and future years. It is assumed that FY 2018-19 per diem costs will be incurred in FY 2019-20.

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, supplemental employee retirement payments, and leased space in some cases, are estimated to be \$13,827 in FY 2019-20 and by \$13,613 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 per year. In addition, costs will increase for district attorney offices to operate diversion programs; use the diversion risk assessment and mental health screening tools; and to collect data as required by the bill. It is estimated that costs for a district attorney 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 in each judicial district 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 on July 1, 2019, except that sections 9, 10, and 11 take effect July 1, 2020.

State Appropriations

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

- \$68,598 to the Judicial Department and an allocation of 0.8 FTE;
- \$500,000 to the Department of Human Services; and
- \$6,315 to the Legislative Department for legislator reimbursement and per diem.

State and Local Government Contacts

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