



**Colorado
Legislative
Council
Staff**

HB16-1410

FISCAL NOTE

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

Drafting Number: LLS 16-1170
Prime Sponsor(s): Rep. Young;
Sen. Grantham

Date: March 28, 2016
Bill Status: House Appropriations
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: COMPETENCY EVALUATION LOCATION

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|--|-------------------------|-------------------------|
| State Revenue | | |
| State Expenditures | <u>\$130,957</u> | <u>\$133,884</u> |
| General Fund | 107,076 | 108,869 |
| Centrally Appropriated Costs | 23,881 | 25,015 |
| FTE Position Change | 2.0 FTE | 2.0 FTE |
| Appropriation Required: \$107,076 - Multiple agencies (FY 2016-17). | | |
| Future Year Impacts: Ongoing state expenditures increase. | | |

Summary of Legislation

Recommended by the Joint Budget Committee, this bill changes procedures around competency evaluations in criminal proceedings. The bill requires the court to order the evaluation to take place on an outpatient basis or, if the defendant is in custody, at the place where the defendant is in custody. The court must not consider the need for an evaluation when considering whether to offer bond to the defendant. The court may order the defendant placed in the custody of the Colorado Mental Health Institute at Pueblo (CMHIP) for the evaluation if the court finds that:

- the defendant is a danger to him or herself or others;
- an inadequate forensic evaluation has been performed or two or more conflicting forensic evaluations have been performed;
- an observation period is necessary to determine if the defendant is competent to stand trial;
- the CMHIP court services evaluator determines that the defendant has been previously uncooperative or has clinical needs that can be addressed at CMHIP; or
- the executive director of the Department of Human Services (DHS), or his or her designee, has provided written approval for the evaluation to be conducted at CMHIP.

If a defendant in custody at CMHIP must be returned to a county jail, the county sheriff must make all reasonable efforts to take custody of the defendant as soon as practicable upon completion of the competency evaluation.

The bill repeals current law that mandates that upon completion of a competency evaluation, the authorities must present to the court an accounting of the cost, and if approved by the court, the account must be paid by the state.

State Expenditures

This bill increases expenditures in DHS by \$119,371 and 2.0 FTE in FY 2016-17 and \$139,772 and 2.0 FTE in FY 2017-18. The bill also directly appropriates funding to the DHS for competency evaluations, rather than reappropriating funds through the Judicial Department. These impacts are discussed below and outlined in Table 1.

| Table 1. Expenditures Under HB16-1410 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Personal Services | \$91,972 | \$100,333 |
| FTE | 2.0 FTE | 2.0 FTE |
| Operating Expenses and Capital Outlay Costs | 8,960 | 2,392 |
| Vehicle Lease Payments | 6,144 | 6,144 |
| Centrally Appropriated Costs* | 23,881 | 25,015 |
| TOTAL | \$130,957 | \$133,884 |

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

Personal services. The bill includes an appropriation to allow DHS to hire two police officers, to be available Monday through Friday, to transport defendants to and from jail and CMHIP for competency evaluations. Costs in the first year are prorated to account for the General Fund pay date shift.

Operating expenses and capital outlay costs. These costs include standard operating costs, as well as police uniforms, badges, radios, chargers, and batteries. Parts of the police uniform, as well as batteries, are ongoing costs.

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 HB16-1410 | | |
|--|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$16,011 | \$16,025 |
| Supplemental Employee Retirement Payments | 7,870 | 8,990 |
| TOTAL | \$23,881 | \$25,015 |

Funding for competency evaluations. The bill reduces General Fund appropriations to the Judicial Department by \$368,000 and reduces the appropriation of reappropriated funds transferred from the Judicial Department to DHS by \$368,000. It also increases direct General Fund appropriations to the DHS by \$368,000 to allow DHS to cover the costs of competency evaluations at CMHIP directly.

Effective Date

The bill takes effect July 1, 2016, and applies to competency evaluations ordered on or after this date.

Local Government Impact

The bill increases workload to sheriffs, who must make all reasonable efforts to take custody of defendants who must return to jail as soon as they complete a competency evaluation. This increase in workload is expected to be minimal.

State Appropriations

This bill requires a General Fund appropriation of \$107,076 to the Department of Human Services in FY 2016-17.

The bill also decreases the General Fund appropriation to the Judicial Department by \$368,000 for FY 2016-17. Correspondingly, the bill decreases the appropriation of reappropriated funds transferred from the Judicial Department to DHS by \$368,000 and increases direct General Fund appropriations to the DHS by \$368,000 for use by the DHS.

The bill requires an allocation of 2.0 FTE to DHS in FY 2016-17.

State and Local Government Contacts

Joint Budget Committee Staff