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Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0277 Date: January 29, 2018
Prime Sponsors: Rep. Singer Bill Status: House Judiciary
Sen. Fields Fiscal Analyst: Chris Creighton | 303-866-5834
Chris.Creighton@state.co.us

Bill Topic: COMPETENCY TO PROCEED JUVENILE JUSTICE SYSTEM

- Summary of Fiscal Impact: State Revenue, State Expenditure (minimal), State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill adds definitions and specifies the factors that must be considered in the determination of a juvenile's competency. This bill increases state expenditures and workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill, which was recommended by the Legislative Oversight Committee Concerning the Treatment of Persons with Mental Health Disorders in the Criminal and Juvenile Justice Systems.

Summary of Legislation

This bill defines mental and developmental disabilities, competent to proceed, incompetent to proceed, mental disability, mental capacity and restoration to competency hearing in the Children's Code. This bill also specifies that the determination of a juvenile's competency must include an evaluation of developmental disabilities, mental disabilities, and mental capacity. The bill also states that age alone cannot be a determining factor of juvenile incompetency without a finding that the juvenile lacks relevant competence.

Under current law, if the court orders a competency evaluation, the evaluation must be conducted in the least restrictive environment while taking public safety and the juvenile's best interests into account. This bill specifies that the evaluation can occur in the home or in community placement, if appropriate.

Background

During FY 2016-17, 8,338 juvenile delinquency cases were filed with the courts. Of these, approximately 390 had a mental health stay in which the juvenile's competency was considered.

## **State Expenditures**

Beginning in FY 2018-19, this bill increases Judicial Department and Department of Human Services workload as described below.

**Judicial Department.** This bill increases trial court workload by a minimal amount. By adding definitions into statute, this bill may increase the number motions questioning a juvenile's competency. This bill also increases the amount of time juvenile competency cases will take due to the requirement that mental capacity, mental disabilities, and developmental disabilities be considered. Less than 500 cases per year are anticipated and the increase in juvenile competency case length is not expected to be significant. In addition, this bill may increase workload for the Office of the Child's Representative to provide representation to juveniles in such cases. The increased workload resulting from this bill can be accomplished by both agencies within existing appropriations.

**Department of Human Services.** By adding additional factors that must be considered when conducting a juvenile competency evaluation, this bill increases workload in the Office of Behavioral Health in the Department of Human Services. To the extent that this bill increases the number of juveniles that are determined incompetent to proceed, workload and costs also increase to provide restoration services. It is anticipated that this increase in workload and costs can be accomplished within existing appropriations.

## **Local Government**

Similar to the state, this bill increases workload in the Denver Juvenile Court to hear and consider juvenile competency cases. To the extent that this bill increases the number of juvenile competency cases or the length of such cases, district attorney workload will increase.

## **Effective Date**

The bill takes effect July 1, 2018. It applies to acts committed on or after this date.

## **State and Local Government Contacts**

District Attorneys  
Judicial  
Human Services  
Information Technology  
Office of Respondent Parents' Counsel  
Office of The Child's Representative