

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0058	Date: January 27, 2015
Prime Sponsor(s): Rep. Rosenthal Sen. Newell	Bill Status: House Judiciary
	Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: COMPETENCY TO PROCEED JUVENILE JUSTICE SYSTEM

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	<u>\$38,035</u>	<u>\$38,035</u>
General Fund	38,035	38,035
FTE Position Change		
Appropriation Required: \$38,035 - Department of Human Services (FY 2015-16)		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

The bill creates a juvenile-specific definition for incompetency to proceed and defines related terms. The bill also specifies that juvenile competency hearings must include an evaluation of the juvenile for developmental disabilities, mental disabilities, and mental capacity. Under current law, the courts are required to order that a competency evaluation be conducted in the least restrictive environment, taking into account the best interests of the youth and public safety. This bill specifies that such a setting may include a home or community placement, if appropriate.

Several of the terms defined in the bill are identical to, or closely resemble, the current definitions in the criminal proceedings statutes regarding competency hearing, including the definitions of "incompetent to proceed," "developmental disabilities," and "mental disability." Other terms are newly defined in the context of juvenile competency hearings, including "mental capacity" and "intellectual disability." Of particular note, the definition of "mental capacity" is defined as a juvenile's capacity to meet all of the following criteria:

- comprehend the charges or allegations against him or her;
- understand the adversarial nature of the proceedings and the role of judges and attorneys involved;
- comprehend the consequences that may be imposed or result from the proceedings;
- disclose to counsel facts pertinent to the proceedings;
- display appropriate courtroom behavior; and
- testify relevantly.

Background

Currently, out of nearly 9,000 juvenile delinquency petitions filed each year, approximately 200 cases involved a mental health stay, which indicates competency issues for the juvenile in the case. The Colorado Mental Health Institute at Pueblo (CMHIP) is responsible for conducting competency evaluations when ordered by the courts. The CMHIP reports that it conducted, on average, about 125 competency evaluations involving juveniles per year, of which 25 evaluations were conducted in an inpatient setting and 100 evaluations were performed at the CMHIP on an outpatient basis.

State Expenditures

The bill increases General Fund costs in the Department of Human Services (DHS) by **\$38,035 per year beginning in FY 2015-16**. These costs are due to an increased number of competency evaluations for juveniles conducted by the CMHIP and additional costs being incurred to conduct some evaluations in home and community settings. These costs are summarized in Table 1 and discussed below.

Table 1. Expenditures Under HB 15-1025		
Cost Components	FY 2015-16	FY 2016-17
Additional Competency Evaluations (\$555 x 30)	\$16,650	\$16,650
Travel and Security for Offsite Evaluations (\$329 x 65)	21,385	21,385
TOTAL	\$38,035	\$38,035

Assumptions. The costs of the bill are based on the following assumptions:

- by creating a juvenile-specific definition that expands the potential criteria under which a juvenile may be found incompetent to proceed, more competency hearings and evaluations will be requested and ordered;
- the number of juvenile delinquency cases involving competency hearings will increase by 50 per year to a total of 250 cases;
- the number of outpatient competency evaluations conducted by the CMHIP will increase by 30 per year to a total of 130 evaluations, while the number of inpatient evaluations will remain roughly constant;
- half of all outpatient evaluations (65 per year) will be conducted in a home or community placement;
- an outpatient competency evaluation costs \$555 if conducted at the CMHIP; and
- additional costs of \$329 per evaluation are incurred for travel and security costs when an evaluation is conducted offsite in a home or community placement.

Competency evaluation costs. Based on the assumptions above, the DHS will require \$16,650 to conduct additional competency evaluations and \$21,385 for travel and security costs for conducting half of outpatient competency evaluations outside of the CMHIP. These offsite costs include staff time for psychologists and security staff to travel from Pueblo to other sites around the state.

Judicial Department costs. The bill also increases trial court workload in two ways. First, it expands the scope of all juvenile competency hearings to include mental capacity, developmental disabilities, and mental disability. Second, the courts will conduct approximately 50 additional juvenile competency hearings per year. However, given that the relatively small number of cases involving juvenile competency issues out of all juvenile delinquency cases, it is estimated that this workload can be accomplished within existing appropriations.

Local Government Impact

The bill will result in additional costs for district attorneys to participate in a greater number of juvenile competency hearings. Costs will be incurred both for additional attorney staff time and for retaining expert witnesses to assist in these cases. Cost increases will be the largest for the most populous judicial districts where a greater percentage of juvenile cases are heard. Applying the fiscal note estimate of an additional 50 competency hearings per year, costs to district attorneys could increase by approximately \$300,000 statewide. However, it should be noted that the exact increase in competency hearings under the bill is not known and depends on numerous factors. To the extent the bill results in more than an additional 50 competency hearings per year, costs for district attorneys will increase beyond this estimate.

Effective Date

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

State Appropriations

For FY 2015-16, the bill requires an appropriation of \$38,035 from the General Fund to the Department of Human Services.

State and Local Government Contacts

Judicial

Human Services

District Attorneys

Counties