

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING MEASURES TO ADDRESS SYNTHETIC OPIATES, AND, IN CONNECTION THEREWITH, CHANGING THE CRIMINAL PENALTIES ASSOCIATED WITH SYNTHETIC OPIATES; USING A SUBSTANCE ABUSE ASSESSMENT TO DIRECT APPROPRIATE TREATMENT AT SENTENCING; PROVIDING OPIATE ANTAGONISTS IN THE COMMUNITY; PROVIDING SYNTHETIC OPIATE DETECTION TESTS IN THE COMMUNITY; CREATING IMMUNITY FOR FURNISHING SYNTHETIC OPIATE DETECTION TESTS; PROVIDING TREATMENT FOR PERSONS IN THE CRIMINAL JUSTICE SYSTEM; DEVELOPING A FENTANYL PREVENTION AND EDUCATION CAMPAIGN; PROVIDING FUNDING FOR SUBSTANCE ABUSE AND HARM REDUCTION; EVALUATING THE SUBSTANCE ABUSE AND HARM REDUCTION NEEDS ACROSS THE STATE; AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

Prime Sponsors: Reps. Garnett and Lynch
Sens. Pettersen and Cooke

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Date Prepared: April 20, 2022

Appropriation Items of Note

Appropriation Required, Amendments in Packet

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/20/22.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment
L.103/104	Bill Sponsor amendments - do not change fiscal impact
L.105	Bill Sponsor amendment - changes fiscal impact <i>but not</i> the appropriation for FY 2022-23

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$3,253,528 General Fund and \$29.0 million cash funds from the Behavioral and Mental Health Cash Fund, which originated as federal funds, to multiple departments in FY 2022-23 as described below.

- The provision appropriates a total of \$4,033,875 to the **Department of Human Services** for FY 2022-23, including \$1,033,875 General Fund and \$3,000,000 cash funds from the Behavioral and Mental Health Cash Fund. The cash funds appropriation is further appropriated to the Department from July 1, 2023, through December 30, 2024. This provision also states that a portion of the General Fund appropriation is based on an assumption that the Department of Human Services will require an additional 1.8 FTE.
- The provision appropriates \$869,288 General Fund to the **Judicial Department** for FY 2022-23, a portion of which is based on an assumption that the Judicial Department will require an additional 1.6 FTE.
- The provision appropriates \$1,350,365 General Fund to the **Department of Public Health and Environment**, a portion of which is based on an assumption that the Department of Public Health and Environment will require an additional 0.6 FTE.
- The provision appropriates \$26.0 million from the Behavioral and Mental Health Cash Fund to two continuously-appropriated cash funds managed by the **Department of Public Health and Environment**: \$20.0 million to the Opiate Antagonist Bulk Purchase Fund and \$6.0 million to the Harm Reduction Grant Program Cash Fund. The Opiate Antagonist Bulk Purchase Fund will support 1.5 additional FTE and the Harm Reduction Grant Program Cash Fund will support 1.0 additional FTE. These 2.5 FTE are not reflected in the appropriations clause because the cash funds are continuously appropriated.

Lastly, the provision strikes the section of the bill related to five-year statutory appropriations to the Department of Corrections. Striking this section reflects the enactment of H.B. 22-1330, which suspended Section 2-2-703, C.R.S., until July 1, 2025.

L.103 Bill Sponsor amendment **L.103** (attached) makes corrections to certain statutory citations in the House Judiciary Committee Report (04/13/22) and adds a repeal date of June 30, 2025 to Section 18-18-403.5 (2.5), C.R.S., as amended by the House Judiciary Committee.

L.104 Bill Sponsor amendment **L.104** (attached) amends Section 18-1.3-103.5, C.R.S., to include a violation of Section 18-18-403.5 (2.5)(a), C.R.S., as amended by the House Judiciary

Committee, among the violations eligible for a felony conviction to be vacated upon completion of any community-based sentence to probation or to a community corrections program and entered as a level 1 drug misdemeanor.

L.105 Bill Sponsor amendment **L.105** (attached) establishes probation, county jail time, or sentencing alternatives such as community corrections for individuals who violate Section 18-18-403.5 (2.5)(a), C.R.S., and specifies that such violators are not subject to the jurisdiction of the Department of Corrections or a mandatory period of parole. The latter specification reduces the fiscal impact of the amendments adopted in the House Judiciary Committee on appropriations to the Department of Corrections in FY 2023-24 and future years. Because the bill does not require an appropriation to the Department of Corrections in FY 2022-23, **L.105 does not affect J.001**.

The Committee should adopt **J.001**, regardless of whether it adopts L.103, L.104, or L.105, or any combination thereof.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2022-23 based on the March 2022 Legislative Council Staff revenue forecast. The budget package includes two set-asides:

- \$40.0 million General Fund for bills that create ongoing obligations; and
- \$900.0 million General Fund for bills that create one-time obligations in FY 2022-23.

The \$40.0 million *appropriations* set-aside includes an additional \$6.0 million General Fund to provide a 15.0 percent General Fund reserve for those appropriations. The \$900.0 million *obligations* set-aside does not include an additional amount for a General Fund reserve and, assumes, but does not require, that obligations be addressed through statutory transfers rather than appropriations. Therefore *appropriations* from the \$900.0 million set-aside require an additional 15.0 percent to maintain the statutory General Fund reserve.

This bill creates an ongoing obligation and requires a General Fund appropriation of \$3,253,528 for FY 2022-23, reducing the \$40.0 million set aside by the same amount.