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FISCAL NOTE

Drafting Number: LLS 20-0570
Prime Sponsors: Rep. Lontine; Soper Sen. Lee

Date: January 24, 2020
Bill Status: House Judiciary
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Bill Topic: GRACE PERIOD BEFORE FAILURE TO APPEAR WARRANT

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

The bill prohibits a court from issuing a bench warrant for failure to appear in court within 72 hours of the defendant's failure to appear. The bill increase state expenditures on an ongoing basis.

Appropriation Summary: The bill requires an appropriation of \$160,307 to the Judicial Department.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1 State Fiscal Impacts Under HB 20-1123

Table with 3 columns: Category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total), Total FTE, Transfers, and TABOR Refund.

Summary of Legislation

The bill prohibits a court from issuing a warrant for failure to appear in court within a 72-hour grace period of the missed court appearance. The court must inform the defendant or the defendant's counsel that no warrant will be issued if the defendant voluntarily appears in court within the 72-hour grace period. Courts are allowed to determine if voluntarily appearances during the period should be made in person, through counsel, a phone call, or another means to reschedule a hearing.

Background and Assumptions

Under current law, when a defendant fails to appear in court, the judge may issue a bench warrant for the defendant's arrest. Law enforcement may then arrest the defendant and, if the defendant is on bond, the defendant forfeits the bond. According to the Judicial Department, in the last three years, an average of 76,402 bench warrants were issued per year for failure to appear. This fiscal note assumes that in approximately 10 percent of cases, the judge uses some discretion and allows a grace period for failure to appear; therefore an average of 68,762 cases per year currently involve the issuance of a bench warrant for failure to appear without a grace period. The bill could increase defendants' failure to appear in court, however these costs have been estimated.

State Expenditures

The bill increases state General Fund expenditures by \$207,670 and 2.5 FTE in FY 2020-21 and \$205,624 and 2.8 FTE in FY 2021-22. These expenditure are shown in Table 2 and discussed below.

Table 2
Expenditures Under HB 20-1153

| | FY 2020-21 | FY 2021-22 |
|-------------------------------|-------------------|-------------------|
| Judicial Department | | |
| Personal Services | \$137,847 | \$150,378 |
| Operating Expenses | \$2,660 | \$2,613 |
| Capital Outlay Costs | \$19,800 | \$1,200 |
| Centrally Appropriated Costs* | \$47,363 | \$51,433 |
| Total Cost | \$207,670 | \$205,624 |
| Total FTE | 2.5 FTE | 2.8 FTE |

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

Judicial Department. Beginning in FY 2020-21, the Judicial Department requires 2.8 FTE Court Judicial Assistants to review and process cases, reschedule hearings, and for any associated data entry. This fiscal note assumes that it will take approximately 5 minutes per case to perform these duties. As stated above, the fiscal note assumes an average of 68,762 cases per year involve the issuance of a bench warrant for failure to appear in court. First-year and FTE costs are prorated to reflect the General Fund paydate shift and an August start date. Standard operating and capital outlay are included.

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 and supplemental employee retirement payments, are estimated to be \$47,363 in FY 2020-21 and \$51,433 in FY 2021-22.

Local Government

The bill may increase workload for district attorneys, law enforcement, and other court staff to attend additional hearings. In addition, to the extent that courts issue fewer bench warrants, county jail expenditures may decrease. These impacts have not been estimated.

Technical Note

When a defendant fails to appear in court, the defendant's bond is forfeited and the bond cannot be continued. The bill does not address the 72-hour grace period's impact on bonds; therefore, the fiscal note has not made any estimate of the potential impact.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State Appropriations

The bill requires an appropriation of \$160,307 and 2.5 FTE from the General Fund to the Judicial Department.

State and Local Government Contacts

Counties Judicial Municipalities Sheriffs