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FISCAL NOTE

Drafting Number: LLS 20-1043 Date: February 21, 2020
Prime Sponsors: Sen. Lee; Marble Bill Status: Senate Judiciary
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Bill Topic: BAIL HEARING WITHIN 48 HOURS OF ARREST

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

The bill requires that a court hold a bond setting hearing within 48 hours after an arrestee's arrives at a jail or a holding facility. The bill will increase state and local expenditures on an ongoing basis.

Appropriation Summary: In FY 2020-21, the bill requires an appropriation of \$765,024 to the Judicial Department.

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

Table 1 State Fiscal Impacts Under SB 20-172

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 requires that a court hold a bond setting hearing within 48 hours after an arrestee arrives at a jail or a holding facility. Beginning on July 1, 2021, the 48-hour requirement applies to an arrestee who was arrested in a county where the alleged offense occurred. Beginning on July 1, 2022, the requirement applies to an arrestee who was arrested in a different county than where the alleged offense occurred.

In addition, the bill creates the position of a bond hearing officer in the Judicial Department to conduct weekend and legal holiday bond hearings via an interactive audiovisual device that provides the public with the opportunity to view the hearing. Judicial districts that contain a county designated high priority or a county eligible for the Underfunded Courthouse Facility Cash Fund Commission are authorized to have a bond hearing officer conduct bond hearings on weekends and legal holidays. The State Court Administrator may also determine if judicial districts that do not meet the requirements above may request that a bond hearing officer hold bond hearings on weekends and legal holidays.

Finally, the bill creates the County Assistance for Bond Hearings Grant Program in the Office of the State Court Administrator in the Judicial Department. The State Court Administrator must promulgate rules to implement the grant program, including the time frames for applying for grants, the form of the grant form application, and the timeline for distributing grant money. The State Court Administrator must prioritize awarding grants to counties that lack current capacity to connect with the court for remote audiovisual bond hearings. Grants must be awarded by October 1 of each year. Grant recipients may use the money to purchase or upgrade audiovisual technology and to offset other costs related to the bill. The fund is subject to annual appropriation from the General Assembly and is repealed on July 1, 2025. All remaining money in the fund will be transferred to the General Fund.

## **Background and Assumptions**

According to the Office of the State Court Administrator's report related to Senate Bill 19-191, two judicial districts, the 2nd and the 19th, are generally meeting the requirements outlined in the bill. The fiscal note assumes that in order to meet the 48-hour bond setting hearing deadline after the defendant's arrest that all judicial districts will need to operate at least one day on the weekend and be open on holidays. This fiscal note assumes nine judicial districts will use a bond hearing officer to conduct a total of 2,000 weekend and holiday bond hearings starting in FY 2021-22.

The Senate Bill 19-191 report can be found here:  
<http://ccionline.org/download/SB19-191-Final-Report-with-all-attachments.pdf>

## **State Expenditures**

The bill will increase state General Fund expenditures by \$816,846 and 0.8 FTE in FY 2020-21 and \$1.1 million and 5.2 FTE in FY 2021-22. These costs are shown in Table 2 and discussed below.

**Table 2  
Expenditures Under SB 20-172**

| <b>Cost Components</b>                      | <b>FY 2020-21</b> | <b>FY 2021-22</b>  |
|---|-------------------|--------------------|
| <b>Judicial Department</b>                  |                   |                    |
| Personal Services                           | \$60,456          | \$362,733          |
| Operating Expenses and Capital Outlay       | \$54,568          | \$14,150           |
| Project Management Consultant               | \$250,000         | \$125,000          |
| Video Conferencing System                   | \$400,000         | \$400,000          |
| Centrally Appropriated Costs*               | \$51,822          | \$120,467          |
| FTE – Personal Services                     | 0.8 FTE           | 4.0 FTE            |
| <b>Judicial (Subtotal)</b>                  | <b>\$816,846</b>  | <b>\$1,022,350</b> |
| <b>Office of the Public Defender</b>        |                   |                    |
| Personal Services                           | -                 | \$75,938           |
| Operating Expenses and Capital Outlay Costs | -                 | \$9,815            |
| Centrally Appropriated Costs*               | -                 | \$24,053           |
| FTE – Personal Services                     | -                 | 1.2 FTE            |
| <b>Public Defender (Subtotal)</b>           | <b>-</b>          | <b>\$109,806</b>   |
| <b>Total</b>                                | <b>\$816,846</b>  | <b>\$1,132,156</b> |
| <b>Total FTE</b>                            | <b>0.8 FTE</b>    | <b>5.2 FTE</b>     |

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

**Judicial Department.** The Judicial Department requires 4.0 FTE, which includes a bond hearing officer, staff assistant, A/V support specialist, and IT technician. As stated above, the bond hearing officer will hold approximately 2,000 bond hearings on weekend and legal holidays for nine judicial districts, and be located in two regional offices: one on the Western Slope and one on the eastern plains. The A/V support specialist will assist with the contractual and technical duties of operating the audiovisual equipment, as well as coordinating participants and ensuring the proceedings run efficiently. The IT support technician will also troubleshoot hardware and software issues, along with performing other support tasks. These costs are prorated to reflect the General Fund paydate shift and an April 1 start date.

In addition, the Judicial Department will hire a contract project management consultant to implement and coordinate the program as well as conduct stakeholder outreach. The cost of a contractor is estimated to be \$250,000 in FY 2020-21 and \$125,000 in FY 2022-21.

Finally, the department will use a software as a service product used in other states, including New Jersey and Oklahoma, to conduct the remote bond hearings. The cost for the software program is estimated to be \$400,000 annually. The contract with the vendor will include regular customer support as well as initial training.

**Office of the Public Defender.** Beginning in FY 2021-22, the Office of the Public Defender will need 0.8 FTE attorney and 0.5 staff assistant to handle bond hearings on weekends and legal holidays. These costs are prorated to reflect the General Fund paydate shift. This assumes a rate of \$65 an hour for 8 hours a day.

**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 \$51,822 in FY 2020-21 and \$144,520 in FY 2021-22.

## **Local Government**

Overall, this bill is expected to increase local government costs and workload starting in FY 2021-22, as described below. This increase may be offset by jail savings. The exact impact to a particular local government will vary by district, depending on current bonding procedures, additional number of days needed for bond hearings, and number of individuals arrested. These impacts have not been estimated.

**District attorneys.** The bill will increase costs and workload for district attorneys. Similar to the, Office of the Public Defender, the 48-hour deadline will require district attorneys staffing these dockets to be available on weekends and holidays in all judicial districts. It is estimated that approximately \$1.4 million statewide is needed to implement the bill. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

**Sheriffs.** The bill will increase costs and workload for sheriffs to ensure the requirements of the bill are met, such as opening the courthouse, providing security, and transporting offenders to and from court. These costs are will vary based on location.

**County Jails.** This bill may lead to a more expedited release of offenders on bond which will decrease county jail costs. The number of offenders that will receive expedited release is unknown; therefore, the impact has not been estimated.

**Denver County Court.** The bill may increase costs, and workload for the Denver County Court, managed and funded by the City and County of Denver to meet the requirements under the bill.

## **Technical Note**

The bill includes a County Assistance for Bond Hearings Grant Program to provide grant awards to counties that lack current capacity to connect with the court for remote audiovisual bond hearings; however the bill appropriates no money towards the program.

## **Effective Date**

The bill takes effect January 1, 2020, if no referendum petition is filed.

**State Appropriations**

In FY 2020-21, the bill requires a General Fund appropriation of \$765,024 to the Judicial Department and 0.8 FTE

**State and Local Government Contacts**

Alternate Defense Counsel  
Judicial

Counties  
Public Defender

District Attorneys