



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated March 7, 2023)

Drafting Number: LLS 23-0724 Date: March 22, 2023
Prime Sponsors: Rep. Lynch; Bacon Bill Status: House Appropriations
Fiscal Analyst: Erin Reynolds | 303-866-4146 erin.reynolds@colego.gov

Bill Topic: OFFICE OF JUDICIAL OMBUDSMAN

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

The bill creates the Office of the Judicial Discipline Ombudsman in the Judicial Department to respond to and support judicial staff in reporting misconduct to the Commission on Judicial Discipline. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$100,453 to the Judicial Department.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee.

Table 1 State Fiscal Impacts Under HB 23-1205

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

Summary of Legislation

The bill establishes the Office of the Judicial Discipline Ombudsman (OJO) in the Judicial Department as an independent office of the Commission on Judicial Discipline. The bill also establishes the Judicial Discipline Ombudsman Selection Board, to be appointed no later than January 1, 2024, to appoint the ombudsman by March 1, 2024, and to oversee the office.

The ombudsman's powers and duties primarily include creating and maintaining an anonymous reporting system for Judicial Department personnel to submit complaints, and managing the process. The ombudsman will investigate and report on instances of misconduct received, and is required to report grievance trends and data collected to the Commission on Judicial Discipline, the Office of Attorney Regulation Counsel, law enforcement, and the Judicial Department. The ombudsman is also required to serve as a liaison between complainants and various community and mental health resources.

Records related to complaints received by the office are exempt from the Colorado Open Records Act. The ombudsman is exempt from mandatory reporting rules, statutes, and policies, and may only report an incident under such provisions with the consent of the complainant. The office may promulgate rules to support its operations. The office is required to maintain office space that is not physically located in or managed by the Colorado Judicial Center.

Background

The Commission on Judicial Discipline was created through Senate Bill 22-201. The same bill created the Legislative Interim Committee on Judicial Discipline. The interim committee requested a similar bill concerning the creation of judicial ombudsman, but the measure was not referred to Legislative Council for approval.

Assumptions

The fiscal note assumes that legislation will be approved this session to create an office of administrative services for independent Judicial agencies that can support the administrative functions of the OJO. The fiscal note assumes this office will be fully functioning by July 1, 2024.

Based on the OJO's need for central administrative support, it is assumed the office will come online July 1, 2024.

State Expenditures

The bill increases General Fund expenditures in the Judicial Department by about \$100,000 in FY 2023-24, and by \$350,000 per year thereafter once fully implemented. Expenditures are detailed below and shown in Table 2.

Table 2
Expenditures Under HB 23-1205

	FY 2023-24	FY 2024-25
Judicial Department		
Personal Services	-	\$208,028
Operating Expenses	-	\$2,700
Capital Outlay Costs	-	\$13,340
Computer Systems and Programming	-	\$45,000
Travel and Meeting Expenses	-	\$30,000
Legal Services	\$100,453	-
Centrally Appropriated Costs	-	\$52,529
FTE – Personal Services	-	1.8 FTE
FTE – Legal Services	0.5 FTE	0.2 FTE
Total Cost	\$100,453	\$351,597
Total FTE	0.5 FTE	2.2 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Judicial Department. The Judicial Department will have staffing costs for the new office, as well as costs for legal services, case management systems, and travel and meeting expenses. Standard operating and capital outlay costs are included, and first-year salary costs are prorated for the General Fund pay date shift.

- **Legal services.** The Department of Law will support the initial work of the selection board and establishing the memorandum of understanding between the OJO and the Judicial Department. On an ongoing basis, the department will assist the OJO with complaints. This work is estimated to require 950 hours, or 0.5 FTE, in FY 2023-24, and 420 hours, or 0.2 FTE, on an ongoing basis.
- **Judicial Ombudsman.** The bill creates the office, which is assumed to include 1.0 FTE ombudsman and 1.0 FTE assistant. Based on assumptions outlined above, the ombudsman will be selected March 1, 2024, and begin work July 1, 2024. The fiscal note assumes the ombudsman will be paid \$152,000 per year, commensurate with the current salary for the Child Protection Ombudsman (OCPO).
- **Support staff.** Support staff, including personnel, recruitment, payroll, benefits, budget, and accounting, is assumed to be provided by the newly created central support office discussed in the Assumptions section.
- **Computer systems.** A case management system for the office is estimated to cost \$45,000 initially, and \$10,000 ongoing.
- **Travel and meeting expenses.** Travel reimbursements, meeting expenses, and software subscriptions are required for the office and the board, estimated at \$30,000 per year based on the OCPO budget.

- **Other Judicial Offices.** Based on the OJO's charge, the fiscal note assumes the Human Resources Division of the State Court Administrator's Office and the Commission on Judicial Discipline will have an increase in complaint-related workload beginning at the end of FY 2023-24. Additional resources will be requested through the budget process as complaint-related workload is known.

Department of Personnel and Administration. To the extent that there is an increase in claims related to state employees, expenditures will increase for the state's liability and risk management program managed by the DPA, and for legal representation provided by the Department of Law. The DPA can absorb up to five complaints assuming average legal defense and settlement costs. Additional resources will be requested through the annual budget process should complaints exceed this threshold.

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, supplemental employee retirement payments, and leased space, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$100,453 to the Judicial Department, to be entirely reappropriated to the Department of Law with an additional 0.5 FTE.

Departmental Difference

The Judicial Department estimates \$6,600 and 0.1 FTE for costs related to OJO administration. The fiscal note assumes the department has limited requirements for administrative support, and has not included these costs.

State and Local Government Contacts

Judicial

Personnel

Law