

**Legislative
Council Staff***Nonpartisan Services for Colorado's Legislature***FISCAL NOTE****Drafting Number:** LLS 19-0345
Prime Sponsors: Sen. Cooke**Date:** January 22, 2019
Bill Status: Senate Judiciary
Fiscal Analyst: Ariel Hammerquist | 303-866-3469
Ariel.Hammerquist@state.co.us**Bill Topic:** POSTCONVICTION REMEDY PROCEEDINGS**Summary of
Fiscal Impact:** State Revenue
 State Expenditure (*minimal*)
 State Transfer TABOR Refund
 Local Government
 Statutory Public Entity

This bill prohibits a defendant from bringing a second or subsequent claim for post-conviction remedy on the grounds of ineffective assistance of counsel in a prior post-conviction proceeding. The bill minimally impacts state workload and local revenue and workload.

**Appropriation
Summary:** No appropriation is required.**Fiscal Note
Status:** The fiscal note reflects the introduced bill.**Summary of Legislation**

This bill prohibits a defendant from bringing a second or subsequent claim for post-conviction remedy on the grounds of ineffective assistance of counsel in a prior post-conviction proceeding. If a motion for post-conviction remedy is denied, the court is required to enter a judgement against the defendant for the amount of the cost of prosecution, the amount of the cost of care, and the any fine imposed. Furthermore, the bill allows the court to assess against the defendant the cost of transporting and housing the defendant from another facility to appear in court on a motion for post-conviction remedy. The bill outlines a discovery process for post-conviction remedy hearings and requires agencies that provide representation to indigent persons to retain records related to the representation of defendants for 7 years, or until the defendants death, if the defendant was convicted of a class 1 felony. The bill limits the time period that a defendant may collaterally challenge the validity of the conviction or adjudication to 5 years.

State Expenditures

Beginning in FY 2019-20, this bill minimally impacts workload in the Judicial Department and agencies that provide representation to indigent persons. This bill both increases and decreases workload for these agencies.

Judicial Department. This bill may decrease the number of post-conviction remedy petitions filed, which would result in a decrease to trial court workloads. However, trial courts may need to process motions regarding costs that the courts are allowed to assess against the defendants, and may need to schedule additional hearings if the defendants contest the amount imposed. These additional hearings would increase trial court workload. Overall, these impacts are assumed to be minimal and no change to appropriations to the Judicial Department is required.

Office of Public Defenders and the Office of Alternative Defense Council. This bill minimally increases workload for the Office of Public Defenders and the Office of Alternative Defense Council to adjust record retention policies. To the extent attorneys from these agencies are no longer required to represent defendants in second and subsequent post-conviction remedy hearings, workload will decrease. No change in appropriations is required for either agency.

Local Government

Beginning in FY 2019-20, this bill is expected to decrease workload for district attorneys.

District Attorneys. To the extent that post-conviction remedy filings are reduced, workload for district attorneys will be reduced. It is estimated that large metro area district attorney offices will see savings of 1.0 FTE or more and that smaller offices will see savings of 0.5 FTE to 1.0 FTE. Deputy district attorney salaries range from \$70,000 to \$150,000, depending on the jurisdiction.

Sheriffs. This bill potentially increases revenue to county sheriffs to the extent that the courts require the defendant to pay transportation and housing costs and these assessments are collected.

Effective Date

Sections 2, 5, 7, and 9 of this bill takes effect October 1, 2019, and the remaining sections take effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed. The bill applies to post-conviction remedy hearings conducted on or after each section's effective date, and the five-year limit imposed in section 9 applies to all post-conviction motions and claims for relief on or after the effective date of that section.

State and Local Government Contacts

District Attorneys

Information Technology

Judicial