



Legislative
Council Staff

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FISCAL NOTE

Drafting Number: LLS 19-0946 **Date:** April 3, 2019
Prime Sponsors: Sen. Bridges; Marble **Bill Status:** Senate Judiciary
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Bill Topic: PROMPT PRETRIAL LIBERTY AND FAIRNESS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates rights for defendants related to release on bond. This bill increases state and local government expenditures and reduces state revenue on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under SB 19-191

		FY 2019-20	FY 2020-21	FY 2021-22
Revenue	Cash Funds	up to (\$838,000)	up to (\$838,000)	up to (\$838,000)
Expenditures	General Fund	-	\$1,169,302	\$970,718
	Centrally Appropriated	-	\$214,904	\$220,127
	Total	-	\$1,384,206	\$1,190,845
	Total FTE	-	8.0 FTE	8.8 FTE
Transfers		-	-	-
TABOR Refund		-	-	-

Summary of Legislation

This bill creates rights for defendants related to release on bond. This requires that:

- a court holding a bond setting hearing for a defendant within 48 hours after the defendant's arrest;
- unless extraordinary circumstances exist, a defendant must be allowed to post bond within 2 hours after the sheriff receives bond information from the court;
- unless extraordinary circumstances exist, a defendant must be released from jail within two hours after the defendant's bond is posted; and
- unless extraordinary circumstances exist, if a defendant has been granted bond and can meet the terms of the bond, the court shall release the defendant even if they are unable to pay the bond fee or cost;

In addition, the defendant must voluntarily agree in writing to the use of the deposit to pay court costs, fees, fines, and restitution, or surcharges. A defendant is not required to agree to apply the deposit toward any amount owed as a condition of release. Finally, a third party that pays a bond for a defendant shall not have the deposit applied to court fees, fines, restitution, or surcharges owed by the defendant at the time of discharge.

Background and Assumptions

Currently, Denver is the only court that meets seven days a week. In addition, three other judicial districts meet for one day on the weekend. 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.

State Revenue

Beginning in FY 2019-20, state cash fund revenue is expected to decrease by up to \$838,000 per year. The average bond revenue collected in FY 2016-17 and FY 2017-18 was \$1,198,266 per year. Requiring a defendant to agree in writing to have the funds applied to outstanding balances along with the prohibition of a third party's bond application to court fees, fines, restitution, or surcharges is expected to decrease bond revenue by up to 70 percent. Criminal fine and court fee revenue is subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Expenditures

Beginning in FY 2019-20, this bill increases state expenditures and workload in the Judicial Department. These impacts are shown in Table 2 and discussed below.

**Table 2
 Expenditures Under SB 19-191**

	FY 2019-20	FY 2020-21	FY 2021-22
Judicial Department			
Personal Services	-	\$860,482	\$938,708
Operating Expenses and Capital Outlay Costs	-	\$308,820	\$32,010
Centrally Appropriated Costs*	-	\$214,904	\$220,127
Total Cost	-	\$1,384,206	\$1,190,845
Total FTE	-	8.0 FTE	8.8 FTE

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

Judicial Department. The 48-hour deadline for bond setting will increase costs and workload for trial courts. It is estimated that all 22 judicial districts will need resources for one additional day per week of work, including judicial officers and staff time to accommodate the deadline. This results in the Judicial Department requiring an additional 4.4 FTE for judicial officers and 4.4 FTE for support staff, which will increase costs by \$1,384,206 in FY 2020-21 and \$1,190,845 in FY 2021-22 and future years. Costs and FTE in FY 2020-21 are prorated for the General Fund pay date shift. Standard judge operating and capital outlay costs for judges are included for the 4.4 FTE magistrates and includes law library materials, travel expenses, judge robe expenditures, and computer hardware and software. Costs in the first year are also included for courtroom furnishings for the magistrate chambers, law library, jury room, and conference room. These costs are based on the Judicial Department common policy costs. Standard operating and capital outlay costs for state employees are included for each support staff FTE.

Indigent representation. Costs and workload will also increase in the Office of the State Public Defender to staff these dockets on weekends and holidays in all judicial districts. It is assumed that these impacts will be addressed through the annual budget process.

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 \$214,904 in FY 2020-21 and \$220,127 in FY 2021-22.

Local Government

Overall, this bill is expected to increase local government costs and workload starting in FY 2020-21, as described below. This increase is 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 state, the 48-hour deadline will require district attorneys staffing these dockets to be available on weekends and holidays in all judicial districts. 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 requirement is met that a bond be allowed to be posted within 2 hours of the sheriffs receiving bond information from the court. Further, workload will increase to transport offenders to and from court.

County Jails. This bill will 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. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

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.

Departmental Difference

The Judicial Department estimates that to recoup revenue losses, primarily from restitution for victims, under this bill they would need 2.0 FTE and \$107,323 beginning in FY 2019-20 to increase collection efforts. The fiscal note does not include these costs in the analysis because while revenue will be reduced, there is nothing in the bill that would require the Judicial Department to recoup these losses.

Effective Date

Section one of the bill pertaining to rights of the defendant takes effect July 1, 2020, and the other sections of the bill take effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	District Attorneys	Judicial
Local Affairs	Sheriffs	