



Legislative  
Council Staff

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**FISCAL NOTE**

**Drafting Number:** LLS 20-0794  
**Prime Sponsors:** Rep. Sandridge

**Date:** February 5, 2020  
**Bill Status:** House Judiciary  
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**Bill Topic:** INTERLOCUTORY APPEALS IN FORCIBLE ENTRY AND DETAINER

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

This bill allows the appellate courts to hear interlocutory appeals or an appeal of an eviction-related order while other parts of the case are still being considered. This bill will increase Court of Appeals filing fee revenue and state expenditures on an ongoing basis.

**Appropriation Summary:** In FY 2020-21, the bill requires an appropriation of \$319,587 to the Judicial Department.

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

**Table 1  
State Fiscal Impacts Under HB 20-1134**

	FY 2020-21	FY 2021-22
<b>Revenue</b>	-	-
<b>Expenditures</b>		
General Fund	\$319,587	\$282,806
Centrally Appropriated	\$60,367	\$71,265
<b>Total</b>	<b>\$379,954</b>	<b>\$354,071</b>
<b>Total FTE</b>	<b>2.4 FTE</b>	<b>3.0 FTE</b>
<b>Transfers</b>	-	-
<b>TABOR Refund</b>	-	-

## Summary of Legislation

Under eviction law, the court may enter an order on the issue of restitution of the premises which restores, or denies to restore, possession of the property to the property owner. This may be ordered while other claims are under judicial consideration. Under current law, it is unclear if an appellate court can hear an interlocutory appeal of just the order on restitution of the premises. This bill allows the appellate courts to hear interlocutory appeals or an appeal of this order while other parts of the case are still being considered. Lastly, this bill specifies that a tenant must continue to pay rent during the appeal.

## Background and Assumptions

In the last three years, 210 forcible entry and detainer cases contained a notice to appeal, or 70 cases per year. This fiscal note assumes that the trial courts will hear an additional 140 cases per year under the bill. Interlocutory appeals require a full appellate review and this fiscal note assumes judicial officers spend eight hours per appeal.

In addition, the Court of Appeals heard a total of 377 district court filings in 2019. This fiscal note assumes that the bill will result in a 10 percent increase in district court case appeals to the Court of Appeals.

## State Revenue

Beginning in FY 2020-21, this bill increases state cash fund revenue from Court of Appeals filing fees. However, this fiscal note assumes a large percentage of indigence related to new filings. The high rate of indigence will result in a minimal increase in filing fees. For informational purposes the Court of Appeals filing fee is \$223. Filing fee revenue is subject to TABOR.

## State Expenditures

The bill increases state General Fund expenditures in the Judicial Department by \$379,954 in FY 2020-21 and \$354,071 in FY 2021-22 and in future fiscal years. These costs are shown in Table 2 and discussed below.

**Table 2**  
**Expenditures Under HB 20-1134**

	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Judicial Department</b>		
Personal Services	\$206,683	\$275,581
Operating Expenses	\$5,225	\$5,225
Capital Outlay Costs	\$107,679	\$2,000
Centrally Appropriated Costs*	\$60,367	\$71,265
<b>Total Cost</b>	<b>\$379,954</b>	<b>\$354,071</b>
<b>Total FTE</b>	<b>2.4 FTE</b>	<b>3.0 FTE</b>

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

**Judicial Department.** The Judicial Department requires 3.0 FTE, as described below.

- *Trial courts.* The trial courts in the Judicial Department require 0.5 FTE of a magistrate to handle the additional 140 expected new cases. This magistrate requires 1.5 FTE for support staff for a court clerk, law clerk, and court reporter. Standard operating and capital costs are included. Also, adding magistrate FTE results in costs for law library materials, travel, and facility costs for courtroom buildout and furnishings, which total \$81,279. First-year costs are prorated to reflect the General Fund paydate shift and to reflect the September effective date.
- *Court of Appeals.* The Court of Appeals requires 1.0 FTE staff attorney to handle an additional 40 new appeal cases. As discussed above, the Court of Appeals can handle 20 appeals cases within existing resources. Should the bill result in more than 40 new appeals cases, this fiscal note assumes that any additional funding will be requested through the annual budget process in future years.

**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 \$60,367 in FY 2020-21 and \$71,265 in FY 2021-22.

**TABOR refunds.** The bill is expected to minimally increase state General Fund obligations for TABOR refunds in FY 2020-21 and FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Local Government

The bill may increase revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver.

## Effective Date

The bill takes effect September 1, 2020, if no referendum petition is filed. The bill applies to orders of restitution of premises entered on or after the bill's effective date.

## State Appropriations

In FY 2020-21, the bill requires a General Fund appropriation of \$319,587 to the Judicial Department and 2.4 FTE.

## State and Local Government Contacts

Judicial