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**FINAL
FISCAL NOTE**

Drafting Number: LLS 20-1043	Date: September 8, 2020
Prime Sponsors: Sen. Lee; Marble	Bill Status: Postponed Indefinitely
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Bill Topic: **BAIL HEARING WITHIN 48 HOURS OF ARREST**

Summary of Fiscal Impact:

<input 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

The bill would have required that a court hold a bond setting hearing within 48 hours after an arrestee arrives at a jail or a holding facility. The bill would have increased state and local expenditures on an ongoing basis.

Appropriation Summary: In FY 2020-21, the bill required an appropriation of \$2.9 million to the Judicial Department.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the Senate Judiciary Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under SB 20-172**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$2,898,083	\$3,333,657
	Centrally Appropriated	\$14,106	\$76,004
	Total	\$2,912,189	\$3,409,661
	Total FTE	0.8 FTE	4.0 FTE
Transfers		-	-
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 and district attorney offices 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, 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 \$2.9 million and 0.8 FTE in FY 2020-21 and \$3.4 million and 4.0 FTE in FY 2021-22. These costs are shown in Table 2 and discussed below.

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

Cost Components	FY 2020-21	FY 2021-22
Judicial Department		
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
Grants to Counties and District Attorney Offices	\$2,133,059	\$2,133,059
Centrally Appropriated Costs*	\$14,106	\$76,004
FTE – Personal Services	0.8 FTE	4.0 FTE
Judicial (Subtotal)	\$2,912,189	\$3,110,946
Office of the Public Defender		
Personal Services	-	\$295,715
Public Defender (Subtotal)	-	\$295,715
Total	\$2,912,189	\$3,409,661
Total FTE	0.8 FTE	4.0FTE

* 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 payday 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.

Also, the department may use a software as a service product to conduct remote bond hearings. Based on experiences in other states, 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.

Finally, this fiscal note assumes that the Judicial Department will distribute \$2.1 million in FY 2020-21 and FY 2021-22 through the County Assistance for Bond Hearings Grant Program to counties and district attorney offices to purchase or upgrade audiovisual technology and to offset other costs related to the bill.

Office of the Public Defender. Beginning in FY 2021-22, the Office of the Public Defender will need additional funding for staff overtime and contract attorneys to handle bond hearings on weekends and legal holidays. Costs assume an attorney rate of \$65 an hour for 8 hours a day and a staff assistant rate of \$28.50 an hour for 8 hours a day. In addition, the information technology costs will increase for the office for scheduling and communications. This fiscal note assumes this cost will be requested 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 \$14,106 in FY 2020-21 and \$76,004 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 workload increase may be offset by jail savings. In addition, revenue may increase for local governments from the Bond Hearings Grant Program. 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. 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.

Effective Date

The bill was postponed indefinitely by the Senate Appropriations Committee on June 13, 2020.

State Appropriations

In FY 2020-21, the bill required a General Fund appropriation of \$2,898,083 to the Judicial Department and 0.8 FTE

State and Local Government Contacts

Alternate Defense Counsel
Judicial

Counties
Public Defender

District Attorneys