



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0162	Date:	February 14, 2024
Prime Sponsors:	Rep. Duran; Lynch Sen. Fields; Gardner	Bill Status:	House Judiciary
		Fiscal Analyst:	Aaron Carpenter 303-866-4918 aaron.carpenter@coleg.gov

Bill Topic: **FIRST DEGREE MURDER BAIL & JURY SELECTION STATUTE**

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

The bill makes first degree murder an unbailable offense and aligns procedures for jury selection to capital cases. Conditional upon the passage of [HCR 24-1002](#), the bill increases state and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under current law, capital offenses (i.e., offenses for which the death penalty may be imposed) are unbailable when the proof is evident or presumption is great. Upon the passage of [HCR 24-1002](#), the bill makes murder in the first degree an unbailable offense when proof is evident or presumption is great. The process under the bill for first degree murder parallels that for capital offenses including:

- conducting a hearing on whether proof is evident or the presumption is great; and
- allowing 10 peremptory challenges during jury selection.

Background

The Colorado Supreme Court [ruled](#) in *People v. Smith* (2023) that the district court “abused its discretion when it treated the charge of first degree murder as a capital offense and then denied the defendant’s request for bail.” In the opinion of the court, a “capital offense” refers to offenses that authorizes the imposition of the death penalty, which the General Assembly repealed in [Senate Bill 20-100](#).

State Expenditures

Conditional upon the passage of HCR 24-1002, the bill may increase workload to the trial courts and the independent judicial agencies that represent indigent offenders to conduct more hearings to determine if proof is evident or the presumption is great in first degree murder cases. Due to the time-intensive nature of first-degree murder charges, the infrequency of preliminary hearing waivers, and that current rule already accommodates 10 peremptory challenges, any workload increase is assumed to be minimal.

Local Government

Similar to the state, workload for district attorney offices will increase to attend additional hearings. The fiscal note assumes that any increase in workload will be minimal.

Effective Date.

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and only takes effect if House Concurrent Resolution 24-1002 takes effect.

State and Local Government Contacts

Counties

District Attorneys

Judicial

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).