

**JBC STAFF FISCAL ANALYSIS  
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING DEFENDANTS' RIGHTS RELATED TO PRETRIAL BOND.

Prime Sponsors: Sens. Bridges and Marble	JBC Analyst: Steve Allen
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	Date Prepared: April 30, 2019

**Fiscal Impact of Bill as Amended to Date**

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/25/19.

<b>XXX</b>	<b>No Change:</b> Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	<b>Update:</b> Fiscal impact has changed due to <i>new information or technical issues</i>
	<b>Update:</b> Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	<b>Non-Concurrence:</b> JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

**Amendments in This Packet for Consideration by Appropriations Committee**

<b>Amendment</b>	<b>Description</b>
L.023	Bill Sponsor amendment - changes fiscal impact

**Current Appropriations Clause in Bill**

The bill neither requires nor contains an appropriation clause for FY 2019-20.

**Description of Amendments in This Packet**

**L.023** Bill Sponsor amendment **L.023** (attached) alters the fiscal impact of the bill. If this amendment is adopted, JBC staff and Legislative Council Staff agree that the appropriations for the bill are as follows:

FY 2019-20: No appropriation or FTE required.  
 FY 2020-21: \$733,936 General Fund and 5.1 FTE.  
 FY 2021-22: \$618,730 General Fund and 5.6 FTE.

*Analysis:* The state fiscal impact of the reengrossed bill is driven by the bill's requirement that a defendant's first appearances before a judge or magistrate occur within 48 hours of arrival at the county jail. Since a first appearance can be conducted in person, via phone, or via video link, this means that court personnel must be present for first appearances on weekends (and some holidays) somewhere in each judicial district. In addition, in small

counties courts meet fewer than five days per week, so additional weekday staffing may be required somewhere in the judicial district to meet the 48 hour requirement. Amendment L.023 eliminates the 48 hour requirement for small counties (class C and D counties). Eight judicial districts (out of 22 total in the state) have nothing but small counties, thus, if L.023 is adopted, there is no need for extra judicial staff in those judicial districts.

### **Points to Consider**

#### *Revenue Loss*

As indicated in the Revised Fiscal Note, this bill is expected to reduce revenue by up to \$838,000 cash funds. The reduction will occur whether or not L.023 is adopted and will come in the form of decreased payments of court fees, fines, restitution, and criminal surcharges that defendants are ordered to pay when sentenced. The court fees, fines, and surcharges help support some programs in the Judicial Department and some programs in other agencies. Under current law (Section 16-4-111, C.R.S.), if a defendant is convicted and is the depositor of a cash bond, the court may apply some or all of the deposit toward any amount owed by the defendant in court costs, fees, fines, restitution or surcharges. The reengrossed bill adds the requirement that the defendant must voluntarily agree in writing to the use of the deposit for this purpose. Current Section 16-4-111, C.R.S., also states that if the depositor of the bond is not the defendant (for example a relative), the court may, with the written permission of the depositor, apply some or all of the deposit toward any amount owed by the defendant in court costs, fees, fines, restitution or surcharges. The reengrossed bill states that the deposit shall not be used in this manner when the depositor is not the defendant.

Over the last two years the Judicial Department has collected an average of \$1.2 million annually in this fashion. The Department estimates that up to 70 percent of this revenue will be lost if statute is changed in this way ( $\$1.2 \text{ million} * 70\% = \$840,000$ ). If this bill becomes law, it would be possible to recoup the lost revenue by adding 2.0 FTE collections investigators to the Department's staff in FY 2020-21 or in a later year at a projected cost of \$107,000 cash funds annually.

#### *Future General Fund Impact*

Although this bill would not require a General Fund appropriation for FY 2019-20, it is projected to require General Fund appropriations of \$1,384,206 in FY 2020-21 and \$1,190,845 in FY 2021-22, reducing the amount of General Fund available for other programs in those years. If L.023 is adopted, future General Fund appropriations are also necessary, as presented above.