



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1102

FISCAL NOTE

Drafting Number: LLS 20-0824
Prime Sponsors: Rep. Tipper; Soper

Date: January 28, 2020
Bill Status: House Judiciary
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Bill Topic: REQUIREMENTS FOR JAILHOUSE WITNESS TESTIMONY

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

The bill requires district attorneys and the Colorado District Attorneys' Council to maintain records of jailhouse witnesses. The bill also creates new processes around jailhouse witness testimony. It will increase state and local government workloads on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill requires each district attorney's office to maintain a central record that tracks:

- each case in which a jailhouse witness has been endorsed by the state to testify against a suspect's or defendant's interest;
the substance of the testimony; and
any benefit that has been requested by, or has been offered to, the jailhouse witness and any benefit that may be provided in the future in connection with such testimony.

Each office must send this information to the Colorado District Attorneys' Council, which must maintain a statewide record accessible to all district attorneys. This information is not subject to the Colorado Open Records Act.

The bill also requires district attorneys to make certain disclosures about jailhouse witnesses, as defined in the bill, and creates a new pre-trial hearing process to determine whether a jailhouse witness's testimony is reliable. If a jailhouse witness's testimony is admitted into evidence, the court must instruct jurors to consider specific factors when assessing the testimony. Further, if a jailhouse witness receives leniency related to a pending charge, a conviction, or a sentence for a crime against a victim in connection with offering or providing testimony against a suspect or defendant, the prosecutor must notify the victim.

State Expenditures

Beginning in FY 2020-21, the bill will minimally increase trial court workload in the Judicial Department. The bill's pre-trial hearing provision may increase the number and length of procedural hearings in criminal cases where a defendant has filed a motion with the court; however, similar hearings already occur as part of the pre-trial discovery process. Since such matters are already generally addressed in current hearings, any additional time spent associated with determining the reliability of jailhouse witness testimony is expected to be minimal and no change in appropriations is required.

Local Government

Beginning in FY 2020-21, costs and workload will increase for district attorney's offices to maintain a central record of jailhouse witnesses and to submit those to the Colorado District Attorneys' Council, which will be required to maintain a database at a cost ranging from \$5,000 to \$10,000. Similar to the state, the costs to cover pre-trial hearings is assumed to be a minimal increase in workload for district attorneys, since this type of work already occurs.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	District Attorneys	Judicial	Sheriffs
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