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HB 20-1102

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 28, 2020)

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

Date: March 20, 2020
Bill Status: Senate Judiciary
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Bill Topic: **REQUIREMENTS FOR JAILHOUSE WITNESS TESTIMONY**

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 requires the Division of Criminal Justice to maintain records of jailhouse witnesses. The bill also creates new processes around jailhouse witness testimony. It will increase state expenditures and local government workloads on an ongoing basis.

Appropriation Summary: For FY 2020-21, the bill requires and includes an appropriation of \$16,860 to the Department of Public Safety.

Fiscal Note Status: The revised fiscal note reflects the reengrossed bill.

**Table 1
State Fiscal Impacts Under HB 20-1102**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$16,860	\$6,840
Transfers		-	-
TABOR Refund		-	-

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 district attorney's office must send this information to the Division of Criminal Justice (DCJ) in the Department of Public Safety on a monthly basis to be maintained in a centralized statewide database that is available to district attorneys throughout the state. This information is not subject to the Colorado Open Records Act.

Jailhouse witness is defined as a witness endorsed by the state who offers or provides testimony for the state regarding statements made by a defendant, while both were incarcerated, regardless of whether the defendant has been charged with the crime at the time the alleged statements were made, and who has requested, has been offered, or may in the future receive a benefit in connection with the testimony. Jailhouse witness does not mean a co-defendant or victim in the case.

The bill also requires district attorneys to make certain disclosures about jailhouse witnesses 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

The bill increases General Fund expenditures in the Department of Public Safety by \$16,860 in FY 2020-21 and \$6,840 in FY 2021-22 and in future years. It will also increase workload in the Judicial Department.

Department of Public Safety. The DCJ requires computer programming to develop a system that can receive monthly input from district attorney's offices and provide online access to the data. Computer programming assumes 60 hours at the rate of \$170 per hour, and network administration assumes 60 hours at the rate of \$111 hours. Costs will be reappropriated to OIT.

Judicial Department. 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, workload will increase for district attorney's offices to maintain a central record of jailhouse witnesses. 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 Appropriations

The bill requires and includes a General Fund appropriation of \$16,860 to the Department of Public Safety, which is reappropriated in full to the Office of Information Technology.

State and Local Government Contacts

District Attorneys Information Technology Judicial Public Safety