



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0740
Prime Sponsors: Rep. Bacon
Sen. Gonzales

Date: March 8, 2021
Bill Status: House Judiciary
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Bill Topic: **EYEWITNESS IDENTIFICATION SHOWUP REGULATIONS**

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 certain data to be collected when a showup is conducted. It will increase state and local government expenditures in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$26,000 to the Department of Law.

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

Table 1
State Fiscal Impacts Under HB 21-1142

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	Cash Funds	\$26,000	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

A "showup" is an identification procedure in which a victim or an eyewitness is presented with a single suspect in-person or in a photo for the purpose of determining whether the eyewitness identifies the individual as the perpetrator.

Beginning October 1, 2021, each law enforcement agency that uses a showup is required to collect the following information: the date the technique was used; the gender and race of the suspect; and whether the technique lead to identification of the suspect. Each law enforcement agency is required to create an annual report of the data collected by February 1 of each year beginning in 2022.

Under the bill, a court is prohibited from admitting evidence of a showup identification unless the court finds that the showup was conducted pursuant to the statutory requirements and the prosecution shows:

- the showup was necessary because the peace officer lacked probable cause that permitted an arrest that would have allowed for the use of a lineup or photo array; or
- exigent circumstances required an immediate identification procedure.

State Expenditures

In FY 2021-22, the bill will increase expenditures in the Department of Law by \$26,000 from the POST Cash Fund. The bill will also increase workload for the Judicial Department and state law enforcement agencies on an ongoing basis.

Department of Law. The POST Board will develop model policies, in coordination with the Colorado District Attorney Council, to address showup policies, procedures, and implementation by local peace officers and prosecutors. Costs assume 520 hours of contractor expertise at \$50 per hour for \$26,000 to be paid by the POST Cash Fund.

Judicial Department. The bill will minimally increase state expenditures in the Judicial Department by requiring a court to make a specific finding regarding showup evidence; however, this is expected to occur infrequently and can be accomplished within existing resources.

State law enforcement agencies. To the extent state law enforcement agencies use showups, costs will increase to meet the bill's reporting requirements. No change in appropriations is required.

Local Government

Similar to the state, local law enforcement agencies, district attorneys, and the Denver County Court will have a workload increase as a result of the bill's requirements regarding use of showup evidence. Impacts will depend on the use of showups in each jurisdiction. Some law enforcement agencies may require computer programming or software upgrades to perform the data collection and reporting required by the bill.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$26,000 to the Department of Law from the POST Cash Fund.

State and Local Government Contacts

Counties	District Attorneys	Judicial
Municipalities	Public Safety	Sheriffs