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Revised Fiscal Note

(replaces fiscal note dated May 18, 202)

Drafting Number: LLS 21-0997
Prime Sponsors: Rep. Herod

Date: May 21, 2021
Bill Status: House Finance
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Bill Topic: COSTS ASSESSED TO JUVENILES IN THE CRIMINAL JUSTICE SYSTEM

Summary of Fiscal Impact:

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill repeals the requirement that juveniles pay certain court related fees and fines. The bill will reduce state and local revenue and state expenditures.

Appropriation Summary:

For FY 2021-22, the General Assembly may choose to appropriate funds to various cash funds to backfill lost revenue. See State Appropriation section.

Fiscal Note Status:

The fiscal note reflects the introduced bill, as amended by the House Judiciary Committee.

Table 1
State Fiscal Impacts Under HB 21-1315

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue¹	Cash Funds	At least (\$1,125,150)	At least (\$1,125,150)
	Total Revenue	At least (\$1,125,150)	At least (\$1,125,150)
Expenditures²	Cash Funds	-	(\$26,790)
	Centrally Appropriated	-	(\$8,702)
	Total Expenditures	-	(\$35,492)
	Total FTE	-	(0.5 FTE)
Transfers	Marijuana Tax Cash Fund	(\$598,000)	(\$598,000)
	Cash Funds	\$598,000	\$598,000
	Total Transfer	\$0	\$0
TABOR Refund		-	-

¹ In addition to the annual revenue reduction shown above, the bill also vacates an estimated \$58.0 million in outstanding balances for fees, costs and surcharges owed. It is unknown what percent of this revenue would be paid in the future, and over what time period.

² The General Assembly may choose to appropriate General Fund to backfill the bill's revenue loss, as discussed in the State Expenditures section.

Summary of Legislation

The bill repeals the requirement that juveniles pay certain court-related fees, costs, and surcharges, including:

- cost of care fee;
- prosecution costs;
- public defender application processing fee;
- a court reimbursement for attorney appointment when a parent is determined not to be indigent;
- the crime victim's compensation surcharge;
- the victims and witness assistance and law enforcement surcharge;
- the sex offender surcharge;
- fees related to genetic testing;
- time payment fees and late penalty fees;
- the restorative justice surcharge;
- fees related to a suitability assessment and restorative justice practices;
- surcharges related to driving under the influence and other similar offenses; and
- fees related to community or public service.

After the effective date of this bill, the balance of any court assessment or ordered cost for specific offenses committed by a juvenile who was under 21 years of age when the offense occurred are unenforceable and not collectable. Courts must vacate these assessments and charges within six months of the bill's effective date. On or before July 1, 2022, the state court administrator must report to General Assembly the number of orders vacated and the amount of the balance of those orders.

Marijuana Tax Cash Fund transfers. The bill makes the following transfers from the Marijuana Tax Cash Fund: \$13,000 to the Restorative Justice Surcharge Fund; \$311,000 to the Crime Victim Compensation Fund, and \$274,000 to the Victims and Witnesses Assistance and Law Enforcement Fund.

State Revenue

Starting in FY 2021-22 the bill will decrease state revenue by an estimated \$1.1 million per year. Table 2 below shows the estimated decrease of revenue to each fund, based on a three-year average of collection data from the Judicial Department. In addition, the bill vacates an estimated \$58.0 million in outstanding fees and surcharges, which potentially reduces revenue collections in future years.

**Table 2
 Estimated Revenue Loss**

Fund Description	Revenue Impact
Victim Compensation Funds ¹	(\$310,555)
Victim Assistance Funds ¹	(\$273,811)
Collections Enhancement Fund	(\$195,669)
Offender Identification Fund	(\$86,322)
Sex Offense-related	(\$72,547)
Public Defender Application and Parental Refusal Fees	(\$69,817)
Juvenile Cost of Care Fee	(\$27,095)
Attorney Fee Reimbursement	(\$21,723)
Restorative Justice Service Surcharge ¹	(\$12,846)
Cost of Prosecution	(\$11,442)
Sheriff – Extradition and Cost Recovery	(\$10,372)
Probation Recoveries	(\$9,631)
Fines	(\$9,204)
Useful Public Service Fee	(\$7,110)
Other Fees and Surcharges	(\$4,814)
Court Costs	(\$2,192)
Total	(\$1,125,150)

¹ The bill transfers Marijuana Tax Cash Fund to these funds to backfill revenue loss, see State Transfers Section below.

In addition to the loss of revenue identified above, the bill also requires the courts to vacate the balance of any court assessment or ordered cost for specific offenses committed by a juvenile who was under 21 years of age. Based on collections data from the Judicial Department, the fiscal note estimates \$58.0 million will be vacated. It is unknown what percentage of this outstanding balance would have been collected over future years, and when it would be received; therefore, an exact annual impact cannot be estimated.

State Transfers

The bill transfers a total of \$598,000 from the Marijuana Tax Cash Fund to the various state cash funds to backfill revenue loss, as shown in Table 3.

**Table 3
 Transfers Under HB 21-1315**

	FY 2021-22	FY 2022-23
Marijuana Tax Cash Fund	(\$598,000)	(\$598,000)
Victim Compensation Funds	\$311,000	\$311,000
Victims and Witnesses Assistance and Law Enforcement Fund	\$274,000	\$274,000
Restorative Justice Surcharge Fund	\$13,000	\$13,000
Total Cost	\$0	\$0

State Expenditures

Beginning in FY 2021-22, the bill will impact state expenditures in the Judicial Department, as shown in Table 4 and discussed below.

**Table 4
 Expenditures Under HB 21-1315**

	FY 2021-22	FY 2022-23
Judicial Department		
Personal Services	-	(\$26,315)
Operating Expenses	-	(\$475)
Centrally Appropriated Costs ¹	-	(\$8,702)
Total Cost	-	(\$35,492)
Total FTE	-	(0.5 FTE)

¹ Centrally appropriated costs are not included in the bill's appropriation.

Collections staff impacts. Starting in FY 2021-22, the bill increases workload for the Judicial Department to complete recalls and to vacate orders on outstanding debt for persons convicted of offenses as a juvenile. This increase will be offset by reduced workload for staff to no longer create payment plans for collecting the types of fees and surcharges eliminated by the bill, and no change in appropriations is required. Once the initial work vacating orders is complete, the Judicial Department will have ongoing costs savings of \$35,492 and 0.5 FTE in FY 2022-23 and future years relating to reduced preparation of payment plans.

Backfill of lost revenue. While the bill reduces revenue to various cash funds, it does not change the programs and duties that are supported from these fund sources. To mitigate this loss in revenue and accounting for transfers included in the bill, the General Assembly may choose to backfill this lost revenue with up to \$0.5 million in General Fund per year. This backfill amount does not account for any lost revenue from vacating outstanding balances, since the fiscal note cannot estimate the amount or timing of that revenue. Without a backfill, the fiscal note assumes that any reductions in appropriations to programs supported by affected cash funds would be accounted for through the annual budget process based on actual revenue and available cash fund balances.

TABOR refunds. The bill decreases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will decrease the amount required to be refunded to taxpayers from the General Fund in FY 2023-24. If the bill causes revenue to fall below the limit by \$30 million, it will trigger a transfer of up to \$30 million from the Unclaimed Property Trust Fund to the Housing Development Grant Fund under current law enacted in House Bill 19-1322.

Local Governments

To the extent the bill reduces criminal justice fees that are passed on to local governments, revenue to local governments will decrease.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

No appropriation is required; however, the General Assembly may choose to appropriation up to \$527,150 General Fund to backfill lost revenue to various cash funds, as shown in Table 2.

State and Local Government Contacts

Counties	District Attorneys	Human Services
Information Technology	Judicial	Revenue