



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0662	Date:	February 11, 2023
Prime Sponsors:	Rep. Woodrow; Bockenfeld Sen. Rodriguez; Gardner	Bill Status:	House Judiciary
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Bill Topic: CLARIFICATIONS TO 48-HOUR BOND HEARING REQUIREMENT

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 clarifies the state's 48-hour bond hearing requirement for individual's in custody. It will increase state and local workload.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under current law, an individual who is arrested must be brought before a judge for a bond hearing within 48 hours of arriving at the jail. The bill clarifies that the 48-hour requirement applies regardless of whether the individual is held in custody in a jurisdiction other than the one that issues the arrest warrant and also applies when a monetary bond was set outside of the presence of the individual or their counsel. The bill also clarifies circumstances when the 48-hour requirement does not apply—such as an individual's refusal to attend court or inability to attend court due to substance use or behavioral health emergencies—and requires sheriffs to notify public defenders and document those circumstances.

Background

[House Bill 21-1280](#) created the 48-hour bond hearing requirement that this bill seeks to clarify. The fiscal note for HB 21-1280 estimated ongoing costs of about \$800,000 and 9.5 FTE for the Judicial Department to create two bond hearing offices to assist rural, multi-county districts where staff resources are limited, as well as centralized staff to provide data entry and technical support. For FY 2023-24, the Judicial Department submitted a supplemental budget request (C&P S2 Third Bond Hearing Office), now part of Senate Bill 23-120, to create a third bond hearing office, add supervisors

to each bond hearing office, and add a central analyst to manage statewide programmatic issues at a cost of about \$650,000 and 5.8 FTE.

State Expenditures

The bill will increase workload in judicial districts that are not currently interpreting the 48-hour bond hearing requirement to apply in all instances, as clarified by this bill.

Local Government

Similar to the state, workload for district attorneys will increase in jurisdictions where the courts have interpreted the law to not require 48-hour bond hearings in certain cases.

Technical Note

Courts are dependent on jails to inform them of persons in their custody who require a bond hearing, and may not be able to meet the 48-hour timeline if there is no requirement for jails to notify the courts.

Effective Date

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

Departmental Difference

The Judicial Department estimates the bill requires \$2.1 million and 17.5 FTE in FY 2023-24 and \$1.7 million and 17.5 FTE in FY 2024-25 and ongoing. The Judicial Department cost estimate is based on the assumption that, without this clarifying bill, some judicial districts will continue interpreting current law as not applying in multi-jurisdictional or warrant-related custodies. Judicial data show that in CY 2022, in urban front range districts, about 11,600 cases were initiated with a warrant, and about 86,000 cases included a failure to appear at a first appearance custody. These districts are largely interpreting the 48-hour requirement not to apply in these cases. The department assumes that this bill will require an additional bond hearing in 90 percent of warrant cases and at least 10 percent of failure to appear cases, which will generate enough caseload to require the following staff, largely based in a new front range bond hearing office: 4.5 FTE Magistrate, 11.0 FTE Court Support Staff, 1.0 FTE Programs Analyst, and 1.0 FTE Technician.

The fiscal note assumes that these resources should be requested through the annual budget process because they are the result of House Bill 21-1280, not this current bill.

State and Local Government Contacts

Information Technology

Judicial

Public Safety

Sheriffs

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit: leg.colorado.gov/fiscalnotes.