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Fiscal Note

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Prime Sponsors: Rep. Lindsay; Jodeh Bill Status: House Judiciary
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Bill Topic: REMOTE PARTICIPATION IN RESIDENTIAL EVICTIONS

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

The bill allows individuals to participate remotely in eviction proceedings. The bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$455,245 to the Judicial Department.

Fiscal Note Status: The fiscal note reflects the introduced bill. Due to time constraints, this analysis is preliminary and will be updated following further review and any additional information received.

Table 1
State Fiscal Impacts Under HB 23-1186

Table with 4 columns: Category, Sub-category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve, TABOR Impact).

Summary of Legislation

The bill allows individuals in residential forcible entry and detainer cases (eviction cases) to participate in county court proceedings remotely. The individual must communicate with the courts their preference to have either an in-person or remote hearing, which the court must accept unless the request is made less than 48 hours before the hearing. In the event of a disconnection, the court must make a reasonable effort to reconnect with the party before rescheduling the hearing for a later date that is within one week of the original hearing, to the extent practicable.

Background

In response to the COVID-19 pandemic, Colorado courts developed procedures for virtual courtrooms to continue operations while mitigating the spread of the COVID-19. Courts currently offer virtual proceedings at their discretion and often for family court proceedings. Family court proceedings across the state also use an e-file system to submit paper documents.

Assumptions

The bill states that defendants may answer virtually by email or, at the courts discretion, through an e-filing system. This fiscal note assumes that making enhancements to the current e-filing system, rather than accepting email documents, is the least cost method to implement the provisions of the bill.

Currently, courts enact default judgements on individuals who do not attend hearings. This fiscal note assumes that as a result of the bill, 7,826 individuals will participate in eviction proceedings that otherwise would not have, based on data provided by the Judicial Department. This fiscal note assumes that 80 percent of these individuals will be indigent.

A number of in-person eviction hearings will also need to allow for virtual participants. This fiscal note assumes that 2,548 court hearings annually will add a virtual courtroom connection for eviction hearings as a result of the bill.

State Revenue

The bill increases state cash fund revenue in the Judicial Department by the amounts shown in Table 2 and discussed below.

**Table 2
Revenue Under HB 23-1186**

| Cash Fund | Fee Split | FY 2023-24 | | FY 2024-25 | |
|------------------------|---------------|------------|-----------------|------------|------------------|
| | | Cases | Revenue | Cases | Revenue |
| Judicial Stabilization | \$33.33 | | \$26,087 | | \$52,173 |
| Court Security | \$33.33 | 783 | \$26,087 | 1565 | \$52,173 |
| Justice Center | \$33.33 | | \$26,087 | | \$52,173 |
| | Totals | | \$78,260 | | \$156,260 |

Filing fees. Court filing fees for eviction proceedings average \$100 per filer. As outlined in the Assumptions section, this fiscal note that 80 percent of the new filers will be indigent and not pay fees, resulting in filing fees being paid in an additional 1,565 cases. Revenue from court filers is split between the Judicial Stabilization Cash Fund, the Court Security Cash Fund and the Justice Center Cash Fund. In FY 2023-24, the number of new filers will be 783 after accounting for an anticipated January 1, 2024, launch of the new e-file system for eviction proceedings. Filing fee revenue is subject to the state’s TABOR revenue limit.

State Expenditures

The bill increases state expenditures in the Judicial Department by \$478,313 in FY 2023-24 and \$116,195 in FY 2024-25, paid from the General Fund and the Information Technology Cash Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3
Expenditures Under HB 23-1178**

| | FY 2023-24 | FY 2024-25 |
|---|-------------------|------------------|
| Judicial Department | | |
| Personal Services (GF) | \$81,680 | \$89,105 |
| Operating Expenses (GF) | \$1,425 | \$1,425 |
| Capital Outlay Costs (GF) | \$13,340 | \$800 |
| Software Development – E-File (CF) | \$358,800 | - |
| Centrally Appropriated Costs ¹ | \$23,068 | \$24,865 |
| | Total Cost | \$478,313 |
| | Total FTE | 1.4 FTE |
| | | \$116,195 |
| | | 1.5 FTE |

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

Judicial Department. The county courts require additional support staff and computer programming to implement the bill as outlined below.

- **Staff.** Providing instructions to individuals in eviction cases will add an estimated 2 minutes of work each time a party indicates a desire to participate virtually, either by telephone or video conference. Additionally, county courts will open a virtual courtroom for a select number of their hearing dates for eviction cases that they would not have otherwise as a result of the bill. Setting up the virtual courtroom will take 1 hour, on average. As outlined in the Assumptions section, this additional hour of setup will occur for 2,548 hearings annually. Set-up costs include the reconnection efforts that must be made if a party is disconnected. These activities result in an estimated additional 3,169 hours of work completed by a Court Judicial Assistant, requiring 1.5 FTE. Costs are prorated for the General Fund pay date shift in the first year and operating expenses and capital outlay expenses are included.
- **Software Development—E-file.** The Judicial Department’s e-filing system will require modification to accept documents from eviction cases. The system changes will include allowing non-attorneys to file documents and making modifications to ensure that e-filing fees are not charged to defendants in these cases, as required by the bill. These upgrades are expected to take three individuals: a contract software engineer, a contract business analyst, and a contract quality assurance analyst, six months to complete, totaling \$358,800. Costs for software development will be paid from the Judicial Department Information Technology Cash Fund.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

Similar to the state, the Denver County Court, managed and funded by the City and County of Denver, will have an increase in costs and workload to manage remote residential eviction cases.

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 2023-24, the bill requires a total appropriation of \$455,245 to the Judicial Department, including:

- \$96,445 from the General Fund and 1.4 FTE; and
- \$358,800 from the Information Technology Cash Fund.

Departmental Difference

The Judicial Department estimates the bill requires \$882,000 and 6.4 FTE in FY 2023-14 and \$496,762 and 6.4 FTE in FY 2024-25 and ongoing. The Judicial Department cost estimate is based on the assumption that opening a virtual courtroom will occur statewide in all 69 of their county court locations once a week and that it will take 2 hours of work to open these courtrooms, on average. In addition, the Judicial department anticipates additional workload for court support staff to process documents via email instead in addition to using the e-file system. This additional workload including processing credit card payments over the phone with individuals and time for court staff and attorneys to access email correspondence. This additional workload was estimated to take an additional 45 minutes per case, requiring more court support staff hours. Lastly, the Judicial Department estimated that the attempts for individuals to reconnect to the virtual courtroom in the event of a lost connection would add, on average, an additional 15 minutes to approximately 2,730 hearings, which would add the need for .3 Judicial Officer and a 1:1 complement of support staff, including magistrate capital and operating costs.

The fiscal note differs from this Judicial Department estimate in several areas. First, the fiscal note estimates the work required to set up virtual court hearings would apply to a smaller number of county courts and would be completed in one hour per meeting instead of two. Second, the fiscal note assumed that the e-filing system, rather than email, will be used, which reduced staffing impacts relative to the Judicial estimate. Lastly, the fiscal note assumes a lower workload amount for reconnections to virtual hearings, and incorporates this time into the overall staffing estimate for conducting virtual hearings.

State and Local Government Contacts

Judicial