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Fiscal Note

Drafting Number: LLS 23-0724 Date: March 7, 2023
Prime Sponsors: Rep. Lynch; Bacon Bill Status: House Judiciary
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Bill Topic: OFFICE OF JUDICIAL OMBUDSMAN

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

The bill creates the Office of the Judicial Ombudsman in the Department of Personnel and Administration to respond to and support judicial staff in reporting misconduct to the Commission on Judicial Discipline. The bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$314,846 to the Department of Personnel and Administration.

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

Table 1 State Fiscal Impacts Under HB 23-1205

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

Summary of Legislation

The bill establishes the Office of the Judicial Discipline Ombudsman (office) in the Department of Personnel and Administration (DPA) as an independent office of the Commission on Judicial Discipline. The bill also establishes the Judicial Discipline Ombudsman Selection Board, to be appointed no later than January 1, 2024, to appoint the ombudsman by March 1, 2024, and to oversee the office.

The ombudsman's powers and duties primarily include creating and maintaining an anonymous reporting system for Judicial Department personnel to submit complaints, and managing the process. The ombudsman will investigate and report on instances of misconduct received, and is required to report grievance trends and data collected to the Commission on Judicial Discipline, the Office of Attorney Regulation Counsel, law enforcement, and the Judicial Department. The ombudsman is also required to serve as a liaison between complainants and various community and mental health resources.

Records related to complaints received by the office are exempt from the Colorado Open Records Act. The office may promulgate rules to support its operations.

Background

The Commission on Judicial Discipline was created through Senate Bill 22-201. The same bill created the Legislative Interim Committee on Judicial Discipline. The interim committee requested a similar bill concerning the creation of judicial ombudsman, but the measure was not referred to Legislative Council for approval.

State Expenditures

The bill increases General Fund expenditures in the DPA by about \$350,000 in FY 2023-24 and by about \$610,000 per year thereafter once fully implemented. Expenditures are shown in Table 2 and detailed below.

Department of Personnel and Administration. The DPA will have staffing costs for the new office, both for the ombudsman and staff support, as well as computer programming, legal services, case management systems, and travel and meeting expenses.

- **Judicial Ombudsman.** The bill creates the office, which is assumed to include 1.0 FTE ombudsman and 1.0 FTE assistant, effective March 1, 2024. The fiscal note assumes the ombudsman will be paid \$152,000 per year, commensurate with the current salary for the Child Protection Ombudsman (OCPO). Standard operating and capital outlay costs are included for these staff.
- **Support staff.** The bill requires the DPA to support the office, which the fiscal note assumes requires accounting, budget, purchasing, and controller staff, estimated at a total of 2.5 FTE, starting one month ahead of the ombudsman selection in February 1, 2024. Standard operating and capital outlay costs are included for these staff.

- **Computer systems and programming.** The DPA also requires one-time programming to update its time and leave system for judicial personnel rules at a cost of \$60,000 in FY 2023-24. A case management system for the office is estimated to cost \$45,000 initially, and \$10,000 ongoing.
- **Legal services.** The Department of Law will support the initial work of the selection board and establishing the memorandum of understanding between the office and the Judicial Department. On an ongoing basis, the department will assist the office with complaints as necessary. This work is estimated to require 360 hours, or 0.2 FTE, in FY 2023-24, and be under 100 hours on an ongoing basis.
- **Travel and meeting expenses.** Travel reimbursements, meeting expenses, and software subscriptions are required for the office and the board, estimated at \$30,000 per year based on the OCPO budget.
- **Claim-related costs.** To the extent that there is an increase in claims related to state employees, expenditures may increase for the state’s liability and risk management program managed by the DPA, and for legal representation provided by the Department of Law. Should either department require additional spending authority, this will be requested through the annual budget process.
- **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, supplemental employee retirement payments, and leased space, are shown in Table 2.

Table 2
Expenditures Under HB 23-1205

	FY 2023-24	FY 2024-25
Department of Personnel and Administration		
Personal Services	\$128,770	\$443,050
Operating Expenses	\$2,160	\$6,075
Capital Outlay Costs	\$33,350	-
Computer Systems and Programming	\$105,000	\$10,000
Travel and Meeting Expenses	\$7,500	\$30,000
Legal Services	\$38,066	-
Centrally Appropriated Costs	\$38,489	\$120,792
FTE – Personal Services	1.5 FTE	4.5 FTE
FTE – Legal Services	0.2 FTE	-
Total Cost	\$353,335	\$609,917
Total FTE	1.7 FTE	4.5 FTE

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

Judicial Department. Based on the office's charge, the fiscal note assumes the Human Resources Division of the State Court Administrator's Office and the Commission on Judicial Discipline will have an increase in complaint-related workload beginning at the end of FY 2023-24. Additional resources will be requested through the budget process as complaint-related workload is known.

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.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$314,846 to the Department of Personnel and Administration, and 1.5 FTE. Of this amount, \$38,066 is reappropriated to the Department of Law with an additional 0.2 FTE.

State and Local Government Contacts

Judicial

Personnel

Law