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Fiscal Note

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Prime Sponsors: Rep. Duran; Weissman Bill Status: House Judiciary
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Bill Topic: CASES OF DOMESTIC VIOLENCE IN MUNICIPAL COURT

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

The bill prohibits domestic violence cases from being heard in municipal court. The bill increases state revenue and expenditures to multiple agencies on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$2.2 million to multiple state agencies.

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

Table 1
State Fiscal Impacts Under HB 23-1222

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

Summary of Legislation

The bill prevents municipal courts from hearing cases regarding alleged acts of domestic violence and requires these cases to be heard in either county or district court instead.

Assumptions

The fiscal note assumes that domestic violence cases filed in municipal court under current law will be filed in county court under the bill. There are at least five municipal courts that hear domestic violence cases, including Aurora, Denver, Englewood, Lakewood, and Westminster. Shifting Denver's average of 2,000 cases per year to Denver County Court from Denver municipal court primarily represents a cost shift in that city and county, except for the state impact to the public defender. Of the remaining municipal courts, a five-year average of cases indicates that 1,884 cases per year will be heard by state-funded county courts in the 1st, 17th, and 18th Judicial Districts.

State Revenue

The bill will increase revenue to the in the Judicial Department by an estimated \$131,006 in FY 2023-24 and \$573,932 in FY 2024-25. These revenues are dispersed to a variety of cash funds, as well as the General Fund and to other state departments. Of assumed 1,884 cases outlined above, 707 are expected to have fines, fees or surcharges levied against parties in FY 2023-24 with an average assessment of \$883, after accounting for the effective date of the bill and indigent status of some clients. In FY 2024-25, 1,413 cases will have fines, fees and surcharges levied against parties after accounting for indigence factor.

State Expenditures

The bill increases state General Fund expenditures by \$2.6 million in FY 2023-24 and \$5.4 million in FY 2024-25 in the Judicial Department, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1222

	FY 2023-24	FY 2024-25
Judicial Department		
Personal Services	\$1,207,187	\$2,897,247
Operating Expenses	\$104,360	\$104,360
Capital Outlay Costs	\$173,758	\$16,000
Centrally Appropriated Costs ¹	\$297,028	\$709,786
FTE – Personal Services	16.7 FTE	39.8 FTE
Judicial Subtotal	\$1,782,333	\$3,727,393

**Table 2
 Expenditures Under HB 23-1222 (Cont.)**

Office of the State Public Defender		
Personal Services	\$458,229	\$1,099,748
Operating Expenses	\$8,775	\$17,550
Capital Outlay Costs	\$86,710	-
Centrally Appropriated Costs ¹	\$123,120	\$246,242
FTE – Personal Services	5.3 FTE	13.0 FTE
OSPD Subtotal	\$655,031	\$1,363,540
Office of the Alternate Defense Counsel		
Legal Services	\$174,033	\$358,527
OADC Subtotal	\$174,033	\$358,527
Total	\$2,611,397	\$5,449,460
Total FTE	22.0 FTE	52.8 FTE

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

Judicial Department. The Judicial Department will require 16.7 FTE in FY 2023-24 and 39.8 FTE in FY 2024-25 to implement the provisions of the bill. In FY 2023-24, costs are prorated for the General Fund pay date shift and a January 1 start date, and include standard judicial operating and capital outlay costs. Staff duties differ by position and are detailed as follows:

- **Court magistrate.** A county court magistrate that hears domestic violence cases averages a caseload of approximately 1,066 cases annually. An additional 1.8 Magistrate FTE will be required on an ongoing basis to hear an estimated 1,884 cases that would have been heard at the municipal court level annually.
- **Court support staff.** County support staff are allocated to each county court magistrate at a 2:1 ratio, resulting in 3.6 FTE on an ongoing basis. These staff include transcribers, judicial assistants, and bailiffs.
- **Probation officers.** Persons convicted of domestic violence charges may be subject to probation. This fiscal note assumes that 7 percent of new domestic violence cases will be subject to pre-sentence investigation reports, and that 1,074 cases will be sentenced to probation. Probation sentencing ranges between 1 and 7 hours of supervision, on average. In total, between pre-sentence investigation reports and probation supervision, an estimated 51,077 hours will be required for probation officers, resulting in 24.5 FTE on an ongoing basis.
- **Probation officer supervisors and support staff.** The staffing ratio for probation staff includes 1 supervisor for every 6 probation officers, resulting in 4.1 FTE on an ongoing basis. Additionally, every 5 probation officers are assisted by a support staff, resulting in 5.7 FTE on an ongoing basis.

Office of the State Public Defender. The bill requires state public defenders to represent defendants in the 3,884 cases that would have been heard by a municipal public defender. First-year costs are prorated for a January 1 start date and the General Fund pay date shift, and include capital outlay and standard operating costs. Assuming the OSPD will represent 95 percent of individuals in bond hearings and 70 percent of individuals in the actual case, the bill requires 7.0 FTE Public Defenders, 2.0 FTE Investigators, 1.0 FTE Paralegal, 2.0 FTE Administrative Assistants, and 1.0 FTE Supervising Public Defender on an ongoing basis.

Office of the Alternate Defense Counsel. Assuming that approximately 1 in 5 cases involving public defenders are referred to the Office of the Alternate Defense Counsel, the office requires approximately 366 contract hours for legal services in FY 2023-24 and 754 hours in FY 2024-25 and ongoing.

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

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the March 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2024-25.

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 Governments

District attorneys. District attorney offices in the 1st, 17th, and 18th Judicial Districts will have an increase in costs estimated to range from \$600,000 to \$1.8 million to hire attorneys, witness specialists, legal assistants, and investigators to handle additional domestic violence cases at the county level. Counties will cover 20 percent of these costs, as discussed below.

Counties. Adams, Arapahoe, Broomfield, Douglas, Elbert, Gilpin, Jefferson, and Lincoln counties are expected to share costs ranging from \$120,000 to \$370,000, which represents the county portion of district attorney costs among impact districts. These counties may also have a minimal increase in revenue from court-related fees. To the extent that counties need to expand court facilities to accommodate additional caseloads, capital construction costs will increase in future fiscal years.

Denver courts. This bill shifts Denver municipal court caseload and related costs to the Denver County Courts. Because the City and County of Denver funds both courts, this represents a cost shift.

Municipalities. The bill will decrease revenue and expenditures to municipal courts that currently hear domestic violence cases, including the municipalities of Aurora, Lakewood, Englewood and Westminster, among others. The estimated decrease of 1,884 cases annually across these municipal courts will result in less court fees collected and also reduce the number of hours spent by municipal public defenders, investigators, and court support staff. Revenue and expenditure reductions will vary by municipality based on caseload.

Effective Date

The bill takes effect January 1, 2024, assuming no referendum petition is filed, and applies to offenses committed on or after this date.

State Appropriations

For FY 2023-24, the bill requires the following General Fund appropriations:

- \$1,485,305 to the Judicial Department and 16.7 FTE;
- \$553,714 to the Office of the State Public Defender and 5.3 FTE; and
- \$174,033 to the Office of Alternate Defense Counsel.

State and Local Government Contacts

Counties	District Attorneys	Judicial
Municipalities		