

**JBC STAFF FISCAL ANALYSIS  
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING A REMEDY FOR IMPROPERLY ENTERED GUILTY PLEAS, AND IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Prime Sponsors: Senator Gonzales  
Representative Tipper

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**Fiscal Impact of Bill as Amended to Date**

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/08/19.

<b>XXX</b>	<b>No Change:</b> Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	<b>Update:</b> Fiscal impact has changed due to <i>new information or technical issues</i>
	<b>Update:</b> Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	<b>Non-Concurrence:</b> JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The bill was amended by the Senate Appropriations Committee on 04/12/19 and by the Senate during third reading on 04/17/19. Legislative Council Staff and JBC Staff agree that these amendments do not change the fiscal impact of the bill.

**Amendments in This Packet for Consideration by Appropriations Committee**

Amendment	Description
None.	

**Current Appropriations Clause in Bill**

The bill includes an appropriation clause that appropriates a total of \$598,600 General Fund to the Judicial Department and the Department of Law, comprised of \$543,461 to the Judicial Department and \$55,139 to the Department of Law. This provision also states that the appropriation is based on the assumption that the Judicial Department will require an additional 4.8 FTE and the Department of Law will require an addition 0.6 FTE to implement the act.

**Points to Consider**

*General Fund Impact*

The Joint Budget Committee has proposed a budget package for FY 2019-20 based on the March 2019 Legislative Council Staff revenue forecast. The budget package leaves approximately \$47.9 million General Fund unallocated. Thus, the General Assembly could appropriate up to \$44.7 million General Fund to fund 2019 legislation and maintain a 7.25 percent General Fund reserve. This bill

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requires a General Fund appropriation of \$598,600 for FY 2019-20, reducing the excess General Fund reserve by \$641,999.

*Possible Additional Costs*

This bill allows a defendant who has entered a guilty plea that has been withdrawn following the successful completion of a Deferred Judgement and Sentence (DJ&S) to petition the court for an order vacating the guilty plea on the grounds that they were not properly advised of the consequences. The guilty plea is vacated as unconstitutionally entered. Vacating the plea as unconstitutional could be followed by a motion by the defendant for a refund of fines, fees, costs, and restitution similar to the refunds required by Section 18-1.3-703, C.R.S. [See the U.S. Supreme Court's decision in *Nelson v. Madden*, 137 S. Ct. 1249 (2017).] If the court agrees to refunds, the expenditures required by the bill will rise.