



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

SB 20-088

FISCAL NOTE

Drafting Number: LLS 20-0650
Prime Sponsors: Sen. Fields, Rep. Roberts

Date: February 5, 2020
Bill Status: Senate Judiciary
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Bill Topic: EVIDENTIARY RULES WHEN INTERFERENCE WITH WITNESS

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

This bill allows witness hearsay evidence to be admissible in a criminal action in those instances where a party to the criminal case wrongfully procures the unavailability of a witness. It may minimally increase state revenue and expenditures beginning in FY 2020-21.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Pursuant to a Colorado Supreme Court opinion, if a party to a criminal case wrongfully procures the unavailability of a witness, evidence that the witness may have been able to offer is still inadmissible if it constitutes hearsay evidence. Beginning September 1, 2020, this bill provides that such a party forfeits the right to object to the admissibility of evidence of the witness based on hearsay and that such evidence is admissible. The bill details the process by which the court must determine whether forfeiture by wrongdoing occurred by a preponderance of the evidence. If practicable, the court shall make the determination using the procedures described in Rule 104 of the Colorado Rules of Evidence.

State Revenue and Expenditures

The bill is anticipated to impact only a specific type of case; therefore, any increase in revenue to or expenditures in the trial courts, probation division, and independent agencies of the Judicial Department is expected to be minimal. No change in appropriations is required. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

## **Local Government**

Similar to the state, any cost or workload increase for district attorneys related to the bill's change in this specific trial process is expected to be minimal.

## **Effective Date**

The bill takes effect September 1, 2020, if no referendum petition is filed. It applies to evidence or statements sought to be admitted on or after this date.

## **State and Local Government Contacts**

Counties  
Judicial  
Public Defender

District Attorneys  
Law

Information Technology  
Municipalities