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FISCAL NOTE

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Prime Sponsors: Sen. Foote Bill Status: Senate Judiciary
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Bill Topic: DISTRICT ATTORNEY DEFENDANT DATA COLLECTION

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

The bill requires each district attorney's office to collect data regarding defendants related to demographics, charges filed, pretrial release results, and sentencing. Each district attorney is required to create an annual report with the data collected and make the data collected available to the public upon request. The bill will increase local government 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

This bill requires each district attorney's office to collect the following data related to each defendant (defined as an adult or juvenile who is arrested or cited for a felony, misdemeanor, drug felony, or drug misdemeanor) in the judicial district:

- a defendant's demographic data, including age, race, ethnicity, and gender; zip code; primary language; national origin; and whether the court determined the defendant is indigent;
• criminal charge data, including each charge filed and, if the charge is drug-related, the drug and amount of drug that is the basis for the charge, and the alleged date and place of the offense;
• bail and pretrial release data, including the pretrial release determination at the arraignment hearing; the conditions of release; the amount of bail or bond, if any; whether revocation of bail, bond, or pretrial release occurred due to a new offense or failure to appear; and the district attorney's recommendation regarding bail, bond, or pretrial release; and
• sentencing data, including the offense and offense classification for each conviction, the district attorney's recommendation on the sentence, the sentence imposed, diversionary programs offered and completed, and plea bargains offered and whether a plea bargain was accepted.

The data must be collected so that each defendant's data is identified as belonging to the defendant without identifying that defendant. District attorneys are required to create an annual report of data collected, and make the data available to the public.

Background and Data

District attorneys. There are 22 district attorney's offices in the state, 21 of which use the same case management system, which is supported by the Colorado District Attorneys' Council (CDAC). The Denver District Court uses a separate case management system. Of the 22 offices, 16 use electronic filing systems, while 6 use paper filing systems. The district attorneys do not currently complete any form of annual reporting.

Cases per year. Using data from the past three years, the fiscal note assumes there are approximately 125,000 cases per year that fall under the bill's data collection requirements, as shown in Table 1.

Table 1
Total Cases Filed Statewide, 2017 to 2019

Cases	2017	2018	2019	3-Year Average
Felonies	51,775	54,479	56,292	54,182
Misdemeanors	61,298	62,589	61,951	61,946
Juvenile	8,337	8,313	8,327	8,326
Totals	121,410	125,381	126,570	124,454

Local Government

Costs will increase for district attorney's offices to comply with the provisions of the bill by an estimated \$96,000 in FY 2020-21 and between \$2.2 million and 30 FTE to \$4.3 million and 60 FTE in FY 2021-22, borne across 22 judicial districts. It is expected that costs in future fiscal years will decrease as data collection methods become integrated with standard practices.

Assumptions. These estimates assume that each case will require an additional 30 to 60 minutes, depending on the crime classification level and type of case management system employed by the office (electronic or paper filing). Salaries assume a blended rate of \$71,875 per FTE. Computer programming work will be completed over FY 2020-21, and data collection will begin in FY 2021-22; see Technical Note.

**Table 2
 District Attorney's Office Costs Under SB 20-179**

	FY 2020-21	FY 2021-22
Computer Programming (CDAC)	\$60,000	-
Computer Programming (Denver)	\$36,000	-
Staff Increase	-	\$2,159,706 to \$4,319,411
Total	\$96,000	\$2,159,706 to \$4,319,411
Total FTE	-	30 to 60 FTE
	<i>Average Staff Cost by Office</i>	<i>\$98,168 to \$196,337</i>
	<i>Average FTE Increase by Office</i>	<i>1.4 FTE to 2.7 FTE</i>

District attorney workload will increase as outlined below. The demographic and criminal charge data is currently, if partially, available to district attorneys and will require computer programming to meet the bill's requirements, while bail, pretrial release, and sentencing data will drive the additional staffing costs.

- **Demographic and criminal charge data.** Currently, some defendant demographic information is available to district attorneys, either collected by law enforcement or through documents received through discovery. District attorneys can ask defendants for this information; however the defendant has the right not to provide this information. Charge data is currently available and uploaded from the Judicial Department into the main district attorney case management system (Denver operates on a unique case management system which will require a manual upload). New fields will be created in the case management systems to collect this information in a way that complies with the bill's reporting requirements.
- **Bail, pretrial release, and sentencing data.** Bail and pretrial release data is not currently captured by district attorneys in a systematic manner, and it is expected that capturing this data will require an additional 10 to 20 minutes per case. Similarly, sentencing data, particularly the details of diversion programs and plea bargain negotiations, are not recorded by district attorneys, and it is expected that capturing this data will require an additional 20 to 40 minutes per case. This creates a range of 30 to 60 minutes per case, which is reflected in the costs shown in Table 2.
- **Annual reporting.** The fiscal note assumes that the computer programming will facilitate the annual reporting required under the bill, resulting in a minimal workload increase.

Technical Note

The district attorney's offices will require time to make the computer and process modifications required under the bill, which is effective August 5, 2020. The fiscal note assumes that computer programming will take place in FY 2020-21 and data collection required under the bill will start July 1, 2021.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

District Attorneys

Judicial