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Fiscal Note

Drafting Number: LLS 22-0013 **Date:** January 28, 2022
Prime Sponsors: Rep. Amabile; Benavidez **Bill Status:** House Judiciary
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Bill Topic: JAIL STANDARDS COMMISSION

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill establishes the Colorado Jail Standards Commission to establish statewide standards for Colorado's jails and requires the Department of Public Safety to enforce these standards. Starting in FY 2022-23, the bill increases state expenditures.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$605,227 to the Department of Public Safety.

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

Table 1
State Fiscal Impacts Under HB 22-1063

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$605,227	\$887,120
	Centrally Appropriated	-	\$163,762
	Total Expenditures	\$605,227	\$1,050,882
	Total FTE	2.0 FTE	9.6 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$90,784	\$133,068

Summary of Legislation

The bill establishes the Jail Standards Commission and delays implementation of section 1 of House Bill 21-1211, as described below.

Jail Standards Commission. The bill establishes the 20-member Jail Standards Commission in the Department of Public Safety. The commission is charged with developing standards for the operation of jails in the following areas:

- reception and release;
- classification of inmates;
- security;
- housing;
- sanitation and environmental conditions;
- communication;
- visitation;
- health care, mental and behavioral health care, and dental care;
- restrictive housing;
- inmate grievances;
- jail staffing; and
- inmate prerogatives.

The commission must establish timelines for implementation of the standards based on county jail size and must adopt initial standards by July 31, 2023. The commission must establish standards regarding the oversight and compliance of standards, including biennial compliance inspections of each jail, a complaint and investigation process, and possible sanctions for noncompliance. It must evaluate the effectiveness of the standards and make any needed changes. The commission repeals on September 1, 2029, after a sunset review.

House Bill 21-1211. The bill delays the implementation of section 1 of House Bill 21-1211 by 6 months (from July 1, 2022 to January 1, 2023). Section 1 of House Bill 21-1211 restricts the use of involuntary placement in restrictive housing in jails and requires jails to use an adequate screening tool to complete health screening during admission.

State Expenditures

The bill increases state expenditures in the DPS by \$605,227 in FY 2022-23 and \$1.1 million in FY 2023-24, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 22-1063**

	FY 2022-23	FY 2023-24
Department of Public Safety		
Personal Services	-	\$753,321
Operating Expenses	-	\$14,175
Capital Outlay Costs	-	\$65,100
Legal Services	\$354,852	-
Board Facilitator	\$50,375	-
IT Modifications	\$200,000	\$10,000
Travel/Printing/Training costs		\$44,524
Centrally Appropriated Costs ¹	-	\$163,762
FTE – Personal Services	-	9.6 FTE
FTE – Legal Services	2.0 FTE	-
Total Cost	\$605,227	\$1,050,882
Total FTE	2.0 FTE	9.6 FTE

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

Department of Public Safety. The DPS will have costs to support the Jail Standards Commission in FY 2022-23, and to inspect and enforce jail standard starting in FY 2023-24, as outlined below.

- *Facilitator costs.* In FY 2022-23 only, expenditures in the DPS will increase to hire a facilitator and consultant to assist in the duties of the Jail Standards Commission. The fiscal note assumes that there will be about 78 days of work at an assumed rate of \$650 per day.
- *IT modifications.* In FY 2022-23, costs in the DPS will increase to create a new data management system to manage jail compliance to the standards. The work will be done by a contractor and is estimated to cost \$200,000 based on similar data systems within the department. In the out-years, it is estimated that expenditures will increase by \$10,000 per year to maintain the system.
- *Legal Services.* In FY 2022-23 only, costs within the DPS will increase to receive legal advice from the Department of Law to promulgate rules based on the recommendations of the standards board. Because the bill outlines a number of different standards, it is estimated that 3,600 legal hours, or 2.0 legal FTE is needed at the standard rate of \$98.57 per hour.

- *Inspections and enforcement.* Starting in FY 2023-24, the DPS will require 10.5 FTE to staff a new unit within the department to inspect and enforce jail standards. The FTE include a new director, a staff assistant, one staff person to provide training and outreach to jails on the new standards, 6.5 compliance officers to inspect jails and enforce the standards, and one compliance officer to investigate any complaints. Based on the current work level of compliance officers for the Office of Community Corrections, the fiscal note assumes that one compliance officer will inspect 4 jails per year. Staff costs include personal services, standard operating, and capital outlay costs shown in Table 1. Costs shown in FY 2023-24 are prorated for the General Fund payday shift.
- *Travel, printing, and training costs.* Starting in FY 2023-24, expenditures in the DPS will have various other cost for the new unit, including printing, travel, and training for new employees. The fiscal note assumes that the department will have \$10,000 in printing costs, require two new vehicle leases at \$3,012 per year, travel 10,000 miles at a cost of \$0.15 per mile, and training costs of \$2,000.

Governor's Office. The Governor's Office of Boards and Commissions will have increased workload to make the required appointments under the bill, including recruiting, vetting, and interviewing potential appointees. It is assumed that the Governor's Office may seek funding through the annual budget process, if necessary, based on the total workload of the Boards and Commissions office and the cumulative impact of all legislation affecting the office.

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

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 beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by \$90,784 in FY 2022-23 and \$133,068 in FY 2023-24, which will decrease the amount of General Fund available for other purposes.

Local Government

The bill will increase costs to local counties in several ways. First, in FY 2022-23, workload for counties who participate in the commission will increase. Then, starting in FY 2023-24, costs to counties will increase if counties need to renovate their jails to comply with the standards recommended by the commission and established by the DPS. Because it is unknown what the standards will be, an estimated cost to counties cannot be determined at this time. County jails will have ongoing additional workload to facilitate inspections by the DPS and respond to any findings or recommendations.

Effective Date

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

State Appropriations

For FY 2022-23, the bill requires a General Fund appropriation of \$605,227 to the Department of Public Safety. Of that amount, \$50,375 and 2.0 FTE must be reappropriated to the Department of Law.

Departmental Difference

The DPS estimates that the bill will cost \$1.7 million and 12.1 FTE in FY 2022-23 and \$1.8 million and 16.0 FTE in FY 2023-24. The DPS estimate is based on the assumption that the number of standards and the development of a new unit necessitates a need for 16.0 FTE. The fiscal note differs from the DPS estimate for two main reasons. First, the fiscal note estimates that 10.5 FTE will be sufficient given the assumption that one compliance investigator can oversee 4 jails per year and that 1 compliance investigator can address complaints regarding jails. Second, the fiscal note assumes that full staffing for the new unit will not begin until FY 2023-24 since that standards will not come into effect until July 31, 2023; the DPS assumed that staff would be hired early in FY 2022-23.

State and Local Government Contacts

Counties
Information Technology
Sheriffs

District Attorneys
Law

Human Services
Public Safety