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Fiscal Note

Drafting Number: LLS 22-0114 **Date:** January 31, 2022
Prime Sponsors: Sen. Lee; Cooke **Bill Status:** Senate Judiciary
 Rep. Benavidez; Soper **Fiscal Analyst:** Will Clark | 303-866-4720
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Bill Topic: EXPAND COURT REMINDER PROGRAM

Summary of Fiscal Impact:

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

This bill expands the state court administrator's court reminder program, making it opt-out and increasing the number of reminders sent to program participants. The bill decreases state revenue, increases state expenditures and decreases state and local expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$32,271 to the Judicial Department.

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

**Table 1
State Fiscal Impacts Under SB 22-018**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue	Cash Funds	-	-
Expenditures	General Fund ¹	\$109,071	\$105,163
	Centrally Appropriated	\$8,858	\$8,871
	Total Expenditures	\$117,929	\$114,034
	Total FTE	0.5 FTE	0.5 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$4,841	\$4,254

¹This fiscal note assumes that \$76,800 of the General Fund expenditures required by this bill can be absorbed using existing program funding sources, and therefore are not included in the bill's appropriation.

Summary of Legislation

The state court administrator currently operates a program to remind criminal defendants and juvenile participants about scheduled court appearances. Participation in the program is voluntary. The state court administrator is required to track data related to usage of the program, and the Judicial Department must report this information during their annual SMART Act hearing.

This bill makes the following changes to the court reminder program:

- participating courts must automatically enroll every criminal defendant and juvenile participant into the program, but allow individuals to opt out of the program;
- the Judicial Department must make reasonable efforts to gather the best available contact information for defendants and add it to the department's case management system;
- the program must send three reminders, instead of two;
- one of the program reminders must be sent the day before the court appearance;
- where the option is available, a link to virtual court appearances must be sent in the final reminder;
- the program must collect data on criminal defendants and juvenile participants who opt out of the program, and include this and other information in the Judicial Department's annual reporting; and,
- individuals who have committed a traffic offense are included in the program, but not individuals who have committed a traffic infraction.

Background

The court reminder system is available to district, county and municipal courts that use the Colorado Online Network (ICON) on the Judicial Department's case management system. Courts that have their own text reminder system may choose to opt out of the program. Currently, the Judicial Department is appropriated about \$109,000 per year for the text reminder system pursuant to SB 19-036, but current costs are about \$25,000 per year, based on participation levels for the opt-in program and actual program costs.

Under current law, failure to appear (FTA) in district, county, or municipal court often results in a bench warrant being issued. A bench warrant allows a law enforcement officer to arrest the defendant that failed to appear. In instances when a bench warrant is issued for failure to appear on a charge of a serious crime, such as a felony, law enforcement often pursue the offender actively until an arrest is made. Bench warrants for less serious crimes such as misdemeanors and traffic offenses are generally not actively pursued and instead the defendant is taken into custody only if they come in contact with law enforcement.

Assumptions

There were 172,241 criminal cases filed in 2021, and roughly 80 percent of the defendants had phone numbers listed in the Judicial Department's case management system. Currently, about 20 percent of all cases opted into the court reminder program.

This fiscal note assumes the bill will expand participation in the program by 70 percent, or roughly 120,000 cases per year, starting in FY 2022-23. This includes a 60 percent increase from defendants who already have a phone number in the department’s case management system but have not opted into the program, as well as a 10 percent increase from defendants whose best available contact information will be gathered by the Judicial Department and entered into the case management system. This fiscal note also assumes that criminal cases will remain constant, and that most defendants will not opt out of the program.

State Revenue

Beginning in FY 2022-23, to the extent that additional reminders to defendants or juveniles of upcoming court dates reduce instances where a defendant fails to appear in court, this bill will decrease state cash fund revenue from court fees and fines. This exact decrease will depend on the reduction in FTA warrants, the type of case in which those reductions occur (felony, misdemeanor, or traffic), and court rehearing fee decisions, and has not been estimated. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Judicial Department by \$117,929 in FY 2022-23 and \$114,034 in FY 2023-24, paid from the General Fund, and decreases expenditures in trial courts starting in FY 2022-23. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under SB 22-018**

	FY 2022-23	FY 2023-24
Judicial Department		
Personal Services	\$25,196	\$27,488
Operating Expenses	\$475	\$475
Capital Outlay Costs	\$6,600	\$400
Reminder Program Expansion	\$76,800	\$76,800
Centrally Appropriated Costs ¹	\$8,858	\$8,871
FTE – Personal Services	0.5 FTE	0.5 FTE
Total Cost	\$117,929	\$114,034
Total FTE	0.5 FTE	0.5 FTE

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

Staffing costs. Judicial staff will spend additional time confirming the best available phone number or contact information for defendants that do not have a phone number listed in the department's case management system, which is estimated to increase required staffing by 0.5 FTE. This work includes approximately 2 minutes per case for staff to research and complete outreach to defendants, and then upload contact information into the court system. Standard operating and capital outlay costs are included, and costs in the first year are prorated for the General Fund paydate shift.

Reminder Program Expansion. The bill expands participation in the court reminder program and increases programming costs in the Judicial Department by \$76,800 a year starting in FY 2022-23. As discussed in the Assumptions section above, gathering best available contact information for defendants and making the reminder program opt-out may increase the total number of criminal cases participating in the program from 20 percent to 90 percent, which will increase annual program costs by \$73,500. The bill also expands the number of text messages that must be sent to defendants before their trial, from two to three, and requires the Judicial Department to gather and report reasons when defendants choose to opt-out of the court reminder program. This additional workload will require ongoing expenditures of \$3,300. Additionally, any increased workload to provide virtual meeting information for hearings, process opt-out requests and increase reporting to the General Assembly is absorbable within existing appropriations.

While expanding the reminder program will increase program costs in the Judicial Department, this fiscal note assumes that most of these expenditures can be absorbed by the department using available appropriations from SB 19-036, described in the Background section above. Therefore, after accounting for the \$76,800 in new costs that can be accomplished within existing appropriations, it is estimated that \$32,271 of the expenditures described in this fiscal note require additional appropriations.

Trial courts. This bill will reduce the number of district and county court rehearings that must be scheduled due to FTA and staff time to produce a FTA bench warrant. Exact impacts will depend on reduction in the number of FTA warrants and type of case in which the reduction occurs. This impact has not been estimated and it is assumed that any reductions in appropriations, if necessary, will be addressed through the annual budget process.

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 decrease the amount of state revenue required to be refunded to taxpayers by an indeterminate amount in both FY 2022-23 and FY 2023-24, as discussed in the State Revenue section above. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save.

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 \$4,841 in FY 2022-23 and \$4,254 in FY 2023-24, which will decrease the amount of General Fund available for other purposes. This amount is calculated using the new appropriations required in the bill, after accounting for existing appropriations available to fund the bill's expenditures.

Local Government

This bill decreases local government costs and workload as described below. These impacts will vary by local government based on the reduction in FTA, FTA warrants issued, arrests, and the number of rehearings held.

District Attorneys. To the extent that this bill decreases the number of instances where a defendant or juvenile fails to appear in court, district attorney workload will decrease.

County jail. This bill is expected to decrease the number of instances where defendants and juveniles are arrested for failing to appear in court. Costs associated with failing to appear include staff time to produce a bench warrant, sheriff deputy staff time to serve the warrant, or process server fees in some cases, transportation costs for transporting arrested defendants to the appropriate county jail, and county jail incarceration costs.

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 \$32,271 and 0.5 FTE to the Judicial Department.

State and Local Government Contacts

Counties	District Attorneys	Information Technology
Judicial	Law	Municipalities
Public Defender	Sheriffs	