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Fiscal Note

Drafting Number: LLS 23-0509 Date: January 12, 2023
Prime Sponsors: Rep. Bacon Bill Status: House Judiciary
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Bill Topic: ADMISSIBILITY STANDARDS FOR JUVENILE STATEMENTS

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

The bill makes juvenile statements inadmissible in court if law enforcement uses deception during interrogation; requires law enforcement to record all interrogations of juveniles; and requires the POST Board to train law enforcement officers on interrogating juveniles. The bill will increase state expenditures in FY 2023-24 only, and will impact state and local workload on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$30,000 to the Department of Law.

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

Table 1
State Fiscal Impacts Under HB 23-1042

Table with 3 columns: Category, Budget Year FY 2023-24, and Out Year FY 2024-25. Rows include Revenue, Expenditures (Cash Funds), Transfers, and Other Budget Impacts.

Summary of Legislation

Deception in juvenile custodial interrogation. The bill makes any statement or admission of a juvenile presumptively inadmissible in court if a law enforcement official knowingly uses deception, as defined in the bill, prior to or during the custodial interrogation, unless the prosecution can prove that the statement was made voluntarily despite the deception.

Interrogation recording. Law enforcement must electronically record all juvenile custodial interrogations regardless of the nature of the offense.

Law enforcement training. The bill requires the Peace Officers Standards and Training Board (POST Board) to develop a live virtual training program on:

- juvenile development and culture and its impact on interviews and custodial interrogations;
- interpreting juvenile behavior during an interview or custodial interrogation;
- techniques for building rapport with juveniles;
- constructing age-appropriate statements and questions; and
- cautions and considerations for interviewing and interrogation juveniles in custody.

The bill requires the state to provide the training on at least ten different dates prior to February 28, 2024, and to cover any reasonable direct local law enforcement agency cost associated with the training.

Background

House Bill 16-1117 required a peace officer investigating an alleged class 1 or 2 felony or a felony sexual assault to electronically record an interrogation occurring in a detention facility.

State Expenditures

The bill increases state cash fund expenditures in the Department of Law by \$30,000 in FY 2023-24 only. In addition, starting in FY 2023-24, workload to the Judicial Department and state agencies that employ peace officers will be impacted as described below.

Department of Law. The bill increases expenditures in the Department of Law from the POST Cash Fund by \$30,000 in FY 2023-24 only to contract with a vendor to develop training curriculum and an instructor to teach classes. Developing the training curriculum is estimated to take 400 hours at a rate of \$75 per hour. The fiscal note assumes all classes will be virtual resulting in no cost to the state for reimbursing direct costs and providing training materials and that the classes can be conducted with existing department trainers.

Judicial Department. Trial court workload will increase to the extent that prosecutors request more hearings to determine if a statement may be admitted despite the use of deception. However, court workload may decrease to the extent less evidence is put in front of the court. Overall, any changes in workload are not expected to require a change in appropriations.

State law enforcement. Workload will increase for state agencies that employ peace officers to coordinate training attendance. No change in appropriations is required for any state agency.

Local Government

Local law enforcement agencies. Workload to local law enforcement agencies may increase to update policies on when to record interrogations. Because law enforcement agencies are already required to record certain interrogations, the fiscal note assumes that law enforcement agencies already have the necessary equipment to comply with the bill. Law enforcement agencies will also have an increase in workload to facilitate scheduling.

District attorneys. Workload and costs to district attorney offices will increase to the extent there are additional or longer hearings to admit evidence. However, workload may decrease to the extent less evidence is put in front of the court and cases do not last as long. Similar to the state, this impact is expected to be minimal.

Technical Note

Timeline feasibility. Assuming a request for proposal solicitation requires six months to complete, the department will not be able to meet the required deadline of holding 10 trainings by February 28, 2024.

Fund source. The bill allows the General Assembly to appropriate General Fund to the POST Board to carry out the duties of developing and holding the training. The fiscal note assumes the POST Cash Fund can cover the one-time costs in the bill.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a \$30,000 appropriation from the POST Cash Fund to the Department of Law.

State and Local Government Contacts

Corrections

Information Technology

Public Safety

District Attorneys

Judicial

Human Services

Law