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Fiscal Note

Drafting Number: LLS 23-0436
Prime Sponsors: Rep. Marshall

Date: March 2, 2023
Bill Status: House Judiciary
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Bill Topic: COUNTY SHERIFFS & DISTRICT ATTORNEYS

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

The bill impacts county sheriff and district attorney offices by changing the nomination process, restricting political activities and disclosure of political affiliations, and adding new education requirements for certain county sheriffs. The bill increases state expenditures and decreases local government workload in general election years beginning in FY 2024-25, and may increase state revenue beginning in FY 2023-24.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts Under HB 23-1206

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	-	\$131,332
Transfers			
Other Budget Impacts			

Summary of Legislation

The bill makes changes to the offices of county sheriffs and district attorneys, including:

- prohibiting their nomination through a primary election and instead, requiring that they file a nomination petition with the Secretary of State at least 55 days before the general election;
- prohibiting their participation in party committees and the listing of their political affiliation on the ballot;
- requiring county sheriff candidates in counties with populations of 25,000 or more to have a Bachelor's degree or higher in criminal justice or a related field; and
- limiting the political activities of employees in county sheriff offices, with violators subject to a civil penalty of up to \$1,000.

Background and Assumptions

Currently, petitions for unaffiliated county sheriff candidates are verified by county clerks and recorders, while petitions for district attorney candidates are verified by the Department of State (DOS). Major and minor party candidates access the primary election ballot by assembly designation or petition. The bill requires all candidates for both offices to petition onto the ballot and for the DOS to review these petitions. DOS contracts with the Department of Personnel and Administration (DPA) to conduct these reviews.

The fiscal note assumes that the DOS will review an additional 43 petitions for district attorney candidates in the 2024 general election and 120 petitions for county sheriff candidates in the 2026 general election, based on previous state and county election data. The fiscal note also assumes each petition will include 1,500 signatures, requiring the DOS to review an additional 64,500 signatures in FY 2024-25 and 180,000 signatures in FY 2026-27. DPA staff can review approximately 49 signatures an hour at a rate of \$99.77 per hour.

State Revenue

State revenue may increase from fines, which are subject to TABOR, when employees in county sheriff offices fail to comply with the bill's restrictions on political activity. The fiscal note assumes that employees will generally follow the law, and any fine revenue will be minimal.

State Expenditures

In FY 2024-25, expenditures for the DOS will increase by \$131,332, paid from the Department of State Cash Fund and reappropriated to the DPA. These costs are for the Document Solutions Group in DPA to process additional petition signatures for the 2024 general election, as outlined in the assumption section of the fiscal note. Expenditures will continue every two years to review petitions in future election years beginning in FY 2026-27. Future costs related to these positions will be requested by the DOS and DPA through the annual budget process, and may vary based on the actual number of candidates filing petitions to access the ballot in any given year. Workload will also increase in the

DOS to modify election-related databases and disclosures, and verify county sheriff education requirements, which can be accomplished within existing appropriations.

Local Government

Beginning in FY 2024-25, workload for county clerk offices will decrease as the review of petitions for county sheriff candidates move to the state level.

Technical Note

The fiscal note assumes that state and local departments will be able to meet the timelines specified in the bill. However, the bill requires that petitions be submitted 55 days before a general election, which may not be feasible due to election calendar deadlines, including the 57-day deadline for the DOS to certify ballot content. Further, depending on the duration of petition review by the DOS, county clerks may be unable to mail ballots to military and overseas voters by the 45-day deadline, as required by state and federal law.

Effective Date

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

State and Local Government Contacts

County Clerks
Secretary of State

District Attorneys
Sheriffs

Personnel