



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1114: DEFENSE REVIEW OF TANGIBLE OBJECT FOR CRIM TRIAL

Prime Sponsors:

Rep. Carter; Espenosa
Sen. Gonzales J.

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Published for: Senate Judiciary**Drafting number:** LLS 25-0700**Version:** First Revised Note**Date:** February 26, 2025**Fiscal note status:** The revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill establishes the right of defense attorneys to review physical evidence.**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis starting in FY 2025-26:

- Minimal State Workload
- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill establishes the right of defense attorneys to review any tangible object held by law enforcement in connection with a criminal trial, except for sexually exploitative materials. Upon request, defense attorneys must be allowed to review evidence as soon as practicable, but at least 35 days before trial. The bill requires the presence of a law enforcement officer while the review occurs.

Law enforcement agencies may record reviews, but only for the purpose of ensuring evidentiary chain of custody. If recordings are made, notice must be provided to prosecutors and also provided in discovery to defense attorneys. Recordings are not otherwise discoverable, unless ordered by the court, and law enforcement agencies may only review recordings for evidence management. Additionally, review by defense attorneys must allow for confidential conversations and the creation of confidential work product.

Finally, the bill prohibits law enforcement officers from activating body-worn cameras during a defense review, and exempts these interactions from other requirements regarding officers and body-worn cameras.

Background

Under current law, prosecutors are required to make materials available to defense attorneys. This includes good faith efforts to make available materials held by other governmental personnel. When prosecutors' efforts in this regard are unsuccessful, courts must issue orders that cause material to be made available to defense attorneys.

State Expenditures

Judicial Department

Judicial Department workload will increase to the extent the bill increases the need for trial court orders or hearings regarding defense review of evidence. Since trial courts already conduct various hearings related to evidence in the course of a criminal trial, any increase in workload is expected to be minimal, and no change in appropriations is required.

State Law Enforcement Agencies

By requiring that defense review occur in a confidential setting with the presence of a law enforcement officer, the bill may increase workload for state law enforcement agencies. However, the fiscal note assumes that state law enforcement agencies already coordinate evidence review in criminal cases with prosecutors. Given this, the fiscal note expects that state law enforcement agencies have the ability to provide this opportunity to defense attorneys when requested. Any increase in workload is further assumed to be minimal, and no change in appropriations is required.

Local Government

To the extent local law enforcement agencies must modify operations or procedures to allow for defense review of evidence in their possession as required by the bill, the bill may increase local government workload or expenditures. The exact impact will vary by jurisdiction.

Effective Date

The bill takes effect July 1, 2025.

Departmental Difference

The Department of Public Safety (CDPS) estimates that the bill requires \$514,318 General Fund, and 1.0 FTE in FY 2025-26, and \$57,648 General Fund, and 1.0 FTE in FY 2026-27 and beyond. This amount includes staff costs and estimated costs of \$10,000 per location to construct space that will allow for defense review of evidence in 2 regional offices of the Colorado Bureau of Investigation and 43 Colorado State Patrol (CSP) offices. This estimate is based on the assumption that the CBI has collected more evidence in recent years as a result of increased staff provided by budget decision items, and that certain CSP offices are not configured for evidence review or public access.

Based on feedback received from the Colorado District Attorneys' Council, the Office of the State Public Defender (OSPD), and current law that requires law enforcement agencies to make evidence available to defense attorneys through prosecutors, the fiscal note assumes that the CBI and the CSP can make evidence available to defense attorneys using the same procedures that they make evidence available to prosecutors. Therefore, the fiscal note does not include these costs.

State and Local Government Contacts

District Attorneys

Public Safety

Judicial

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).