



Legislative Council Staff
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Fiscal Note

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Prime Sponsors:

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Bill Topic: OFFICE OF THE JUDICIAL DISCIPLINE OMBUDSMAN

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

The bill establishes the Office of the Judicial Discipline Ombudsman. Beginning in March of FY 2023-24, the bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$128,678 to the Office of the Judicial Discipline Ombudsman.

Fiscal Note Status: The fiscal note reflects the bill draft requested by the Legislative Interim Committee on Judicial Discipline.

Table 1
State Fiscal Impacts Under Bill 3

Table with 4 columns: Category, Budget Year FY 2023-24, Out Year FY 2024-25. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (General Fund Reserve).

## **Summary of Legislation**

The bill creates the role of the Judicial Discipline Ombudsman in the newly created Office of the Judicial Discipline Ombudsman (office), an independent office within the Commission on Judicial Discipline (commission) to be operated by memorandum of understanding between the two entities.

**Judicial Discipline Ombudsman.** The ombudsman is a neutral resource within the commission who will assist judicial personnel in navigating the complaint process, understanding their rights, and providing referrals for additional support services as needed or upon request. The office is required to create and maintain an anonymous reporting system and hotline for judicial personnel to submit complaints. The ombudsman is also required to report certain cases to the commission, the Office of Attorney Regulation Counsel, law enforcement, and the Judicial Department. The bill outlines experience requirements for the ombudsman. The General Assembly must set the ombudsman's compensation, and the amount may not be reduced for the term of an appointment.

**Judicial Discipline Ombudsman Selection Board.** The bill establishes the Judicial Discipline Ombudsman Selection Board to be appointed no later than January 1, 2024. The board must appoint an ombudsman by March 1, 2024, and every term thereafter. The bill outlines board responsibilities, which include appointing and advising the ombudsman. Board members serve without compensation, but may be reimbursed for actual and necessary expenses.

**Confidentiality.** The bill requires the ombudsman to disclose complaints that allege judicial misconduct. All other information exchanged with the ombudsman is confidential and not discoverable unless the complainant gives the ombudsman permission to disclose the information. The records related to complaints received by the office are not subject to the Colorado Open Records Act.

**Administrative support.** The bill requires that the commission provide limited administrative support to the office, in order for the office to maintain its independence.

**Rulemaking.** The bill authorizes the office to promulgate rules necessary to implement the requirements of the bill and to ensure full confidentiality of disclosures made to the office by complainants.

**Reporting.** The ombudsman is required to provide annual reporting to the Judicial Department, commission, and General Assembly.

## **Background and Assumptions**

Under current law, the Judicial Department provides the Commission on Judicial Discipline with office space, accounting support, information technology support, human resources, payroll services, and similar support services at no cost to the commission. The fiscal note assumes that the bill intends to have the office utilize these same existing resources.

However, if the bill intends to have the office utilize its own administrative staff in order to maintain its independence, costs for this unit could include up to 1.0 FTE and a shared hybrid workspace for each of four positions, including accounting, human resources, IT support, and payroll services.

Assuming that these positions cannot overlap with each other or be hired part-time, the cost for 4.0 FTE is \$361,350 in the bill’s first full implementation year. These costs are not currently included in this fiscal note estimate and this assumption will be updated as the intent of the bill is clarified.

**State Expenditures**

The bill increases state General Fund expenditures in the newly created Office of the Judicial Discipline Ombudsman by the amounts shown in Table 2 and detailed below.

**Table 2  
Expenditures Under Bill 3**

	FY 2023-24	FY 2024-25
<b>Office of the Judicial Ombudsman</b>		
Personal Services	\$55,361	\$221,445
Operating Expenses	\$810	\$1,900
Capital Outlay Costs	\$13,340	\$800
Case Management System	\$45,000	\$10,000
Travel and Meeting Expenses	\$10,000	\$30,000
Leased Space	\$4,167	\$12,500
Centrally Appropriated Costs <sup>1</sup>	\$11,800	\$42,802
<b>Total</b>	<b>\$140,478</b>	<b>\$319,447</b>
<b>Total FTE</b>	<b>0.6 FTE</b>	<b>2.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill’s appropriation.

**Office of the Judicial Discipline Ombudsman.** Costs for the new office, including staff, case management, expenses, and leased space, are outlined below. Administrative support costs for this new office are not included; see Background and Assumptions section.

- **Staff.** The fiscal note assumes that the ombudsman will be paid \$152,000 per year, commensurate with the current salary for the Child Protection Ombudsman. One administrative assistant is also included for the office. Standard operating and capital costs are included for these staff, and first-year costs are prorated for a March 1, 2024, office opening and the General Fund pay date shift.
- **Case management.** The case management system is estimated to cost \$45,000 initially, and \$10,000 ongoing.

**Travel and meeting expenses.** Travel reimbursements, meeting expenses, and software subscriptions are required for the office and the board, estimated at \$30,000 per year based on the OCPO budget.

- **Leased space.** Leased space is inclusive of two work units comparable to the commission’s, calculated at 400 square feet per office at \$31.28 per square foot.

**Judicial Department.** Workload will minimally increase for judges and employees of the Judicial Department to serve on the board. Any assistance provided by the Judicial Department is expected to be minimal. No change in appropriations is required.

**Governor's Office.** Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

**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. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, which will decrease the amount of General Fund available for other purposes.

## **Effective Date**

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

## **State Appropriations**

For FY 2023-24, the bill requires a General Fund appropriation of \$128,678 to the Office of the Judicial Discipline Ombudsman in the Judicial Department, and 0.6 FTE.

## **State and Local Government Contacts**

Commission on Judicial Discipline                      Judicial