



**Fiscal Note**  
**Legislative Council Staff**  
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**SB 25-189: REQUIRE JURY TO DETERMINE PRIOR CONVICTIONS**

**Prime Sponsors:**  
Sen. Liston; Snyder  
Rep. Soper; Espenoza

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**Version:** First Revised Note  
**Date:** April 24, 2025

**Fiscal note status:** The revised fiscal note reflects the reengrossed bill.

**Summary Information**

**Overview.** The bill requires juries, instead of a judge, to determine habitual criminal status.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

**Appropriations.** For FY 2025-26, the bill requires and includes an appropriation of \$17,500 to the Judicial Department.

**Table 1**  
**State Fiscal Impacts**

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures (General Fund)	\$17,500	\$17,500
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

## **Summary of Legislation**

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Under current law, someone with certain past convictions can be determined as a habitual criminal, subject to enhanced sentencing. A jury decides if the person is guilty of the current crime, and the judge decides if they have the required past convictions to be a habitual criminal.

The bill changes this by requiring a jury—during a separate hearing—to decide if the person has the past convictions to qualify as a habitual criminal. This hearing must be held with the same jury that heard the main case, unless it is necessary and legally allowed to use a new jury. If a new jury is used, the hearing must happen as soon as possible.

The bill also removes the process for a habitual criminal determination to occur after a guilty verdict but before sentencing when the prosecutor submits new information on applicable prior convictions.

## **State Expenditures**

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Starting in FY 2025-26, the bill increases state expenditures by an estimated \$17,500 per year to pay jurors for the additional time to determine habitual criminal status. The bill also increases workload to the trial courts and offices that represent indigent offenders.

### **Jury Per-Diem Reimbursements**

According to the Judicial Department, there were an average of 18 cases per year in the last three years where a jury convicted a defendant of a habitual criminal charge, with trials typically ranging between 5 to 7 days in length. Jurors receive per diem of \$50 beginning on their fourth day of service, and there are 14 jurors per case. Assuming the average caseload, and that 90 percent of cases will retain the same jury panel to make this determination, while 10 percent will require a new jury panel that would not require per-diem (since they wouldn't reach the 3-day requirement for per-diem), this results in additional juror per diems estimated at \$11,200.

Additionally, the bill is expected to create a minimal increase in jury trials. According to the Judicial Department, there were an average of 332 cases per year in the last three years where a defendant was found guilty of a habitual criminal charge that was not resolved by a jury.

Assuming 1 percent of these cases, or 3 cases per year, would go to a jury trial, and assuming jury trials take six days—three of which are paid, this results in an additional juror per diems estimated at \$6,300.

### **Courtroom Workload**

Starting in FY 2025-26, the bill increases workload in the trial courts. Due to the low number of cases, this is anticipated to result in a total of 0.1 FTE including a magistrate and support staff, which is below the department's 0.3 FTE absorbability threshold and can be accomplished within existing resources.

## **Offices Representing Indigent Offenders**

Similar to the courts, offices that represent indigent offenders will have increase workloads to attend longer hearings and potentially more jury trials. No change in appropriations is required.

## **Local Government**

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Similar to the state, the bill increases workload district attorney offices to attend longer hearings and potentially more jury trials. Due to the low number of cases, the fiscal note assumes any workload increase is minimal. District attorney offices are funded at the county level.

## **Effective Date**

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The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to any sentencing hearings on or after this date.

## **State Appropriations**

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For FY 2025-26, the bill requires and includes a General Fund appropriation of \$17,500 to the Judicial Department.

## **State and Local Government Contacts**

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Judicial