



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-072: INCREASED PENALTY FOR VEHICULAR HOMICIDE & ASSAULT

**Prime Sponsors:**

Sen. Carson; Snyder

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**Fiscal note status:** The fiscal note reflects the introduced bill.

### Summary Information

**Overview.** The bill clarifies that criminally negligent homicide includes conduct with motor vehicles, and makes vehicular homicide and vehicular assault crimes of violence. It also makes conforming amendments to other driving-related sanctions.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis starting in FY 2026-27:

- State Revenue
- State Expenditures
- TABOR Refunds
- Local Government

**Appropriations.** No appropriation is required.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	-\$44,640
State Expenditures	\$0	\$15,721,727
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	-\$44,640
Change in State FTE	0.0 FTE	-6.3 FTE

Fund sources for these impacts are shown in the tables below.

**Table 1A  
State Revenue**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$0
Cash Funds	\$0	-\$44,640
<b>Total Revenue</b>	<b>\$0</b>	<b>-\$44,640</b>

**Table 1B  
State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
General Fund	\$0	\$15,852,479
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	\$0	-\$130,752
<b>Total Expenditures</b>	<b>\$0</b>	<b>\$15,721,727</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>-6.3 FTE</b>

## Summary of Legislation

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The bill clarifies that criminally negligent homicide includes conduct with motor vehicles and makes vehicular homicide and vehicular assault crimes of violence. It also makes conforming amendments to other driving-related sanctions to reflect the clarification of criminally negligent homicide.

### Criminally Negligent Homicide

The bill clarifies that a person who operates or drives a motor vehicle with criminal negligence that is the proximate cause of death of another person commits the class 5 felony of criminally negligent homicide. Also, under current law, it is a class 1 misdemeanor traffic offense if a person uses a mobile electronic device while driving and this action is the proximate cause of death of another person. The bill makes this offense an instance of criminally negligent homicide, with violations punishable as a class 5 felony.

### Vehicular Homicide and Vehicular Assault

The bill makes the offenses of vehicular homicide and vehicular assault crimes of violence. Additionally, persons committing these offenses are ineligible for probation and are subject to enhanced sentences to the Department of Corrections (CDOC).

## **Other Driving-Related Sanctions**

To reflect the clarification to criminally negligent homicide, the bill makes conforming amendments to sections of statute that describe sanctions and procedures including:

- revocation of driver licenses and permits;
- habitual offender status for the purpose of driver license revocation; and
- admissibility of involuntary blood tests and procedures for taking other biological samples as part of a traffic stop.

## **Comparable Crime Analysis**

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Legislative Council Staff (LCS) is required to include certain analysis in the fiscal note for any bill that creates a new crime, or that either reclassifies or creates a new factual basis for an existing crime. This section identifies comparable crimes and discusses assumptions on future conviction rates resulting from the bill.

### **Prior Conviction Data**

The sections below provide prior conviction data for the offenses in the bill.

#### **Criminally Negligent Homicide**

This bill creates a new factual basis for the existing offense of criminally negligent homicide, a class 5 felony, by including circumstances where a motor vehicle is driven. From FY 2022-23 to FY 2024-25, 64 individuals have been convicted and sentenced for this offense. Of the persons convicted, 45 were male and 19 were female. Demographically, 52 were White, 3 were Black/African American, 7 were Hispanic, 1 was classified as "Other," and 1 did not have a race identified.

#### **Vehicular Homicide**

This bill makes the existing offense of vehicular homicide, which is either a class 3 or class 4 felony depending on the circumstances, a crime of violence. From FY 2022-23 to FY 2024-25, 204 individuals have been convicted and sentenced for this offense. Of the persons convicted, 164 were male and 40 were female. Demographically, 140 were White, 19 were Black/African American, 35 were Hispanic, 5 were Asian, 3 were American Indian, and 2 were classified as "Other."

## Vehicular Assault

This bill makes the existing offense of vehicular assault, which is either a class 4, class 5, or class 6 felony depending on the circumstances, a crime of violence. From FY 2022-23 to FY 2024-25, 923 have been convicted and sentenced for this offense. Of the persons convicted, 694 were male and 229 were female. Demographically, 686 were White, 78 were Black/African American, 111 were Hispanic, 13 were Asian, 13 were American Indian, and 22 were classified as "Other."

## Use of a Mobile Electronic Device while Driving—Causing Death

This bill reclassifies the existing offense of use of a mobile electronic device while driving that causes the death of another, a class 1 misdemeanor traffic offense under current law, and instead makes this offense an instance of criminally negligent homicide, a class 5 felony. From FY 2022-23 to FY 2024-25, no individuals have been sentenced and convicted for this existing offense.

## Assumptions

The below sections discuss assumptions about the bill's impact on criminal sentencing. Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

## No Changes to Criminal Sentencing

The changes to the offenses of criminally negligent homicide and use of a mobile electronic device while driving that causes the death of another are assumed to have a minimal or no impact on criminal sentencing. It is assumed that the circumstances included by the bill are already being prosecuted as criminally negligent homicide under current law.

## Mandatory Sentences to the CDOC

The bill requires a sentence to the CDOC for the crimes of vehicular homicide and vehicular assault. Based on the prior conviction data above, about 239 more individuals per year will be sentenced to the CDOC. This includes 18 more individuals per year who are convicted of vehicular homicide, with 4 of these for a class 3 felony and 14 of these for a class 4 felony. Additionally, the total includes 221 more individuals per year who are convicted of vehicular assault, with 100 of these for a class 4 felony, and 121 for a class 5 felony.

## Enhanced Sentences for Crimes of Violence

A crime of violence also requires a sentence to at least the midpoint of the presumptive range, as modified for an extraordinary risk crime (which increases the maximum range by 4 years for class 3 felonies, by 2 years for class 4 felonies, and by 1 year for class 5 felonies). Based on the

length of sentences to the CDOC from the prior conviction data above, about 59 individuals per year will receive a longer sentence to the CDOC. This includes 21 individuals per year for vehicular homicide, with 13 of these for a class 3 felony and 8 for a class 4 felony. Additionally, about 38 individuals per year convicted of vehicular assault would receive a longer sentence to the CDOC, with 22 of these for a class 4 felony and 16 for a class 5 felony; no persons convicted of class 6 felony vehicular assault received a sentence below the midpoint.

### Average Length of Stay

According to the Division of Criminal Justice estimates, the average length of stay (ALOS) for a non-violent, non-sex offense is 65 months for a class 3 felony, 36 months for a class 4 felony, and 23 months for a class 5 felony. The ALOS for extraordinary risk crimes are 120 months for a class 3 felony, 56 months for a class 4 felony, and 29 months for a class 5 felony.

### CDOC Costs in Fiscal Notes

Due to prison capacity issues, fiscal notes for the 2026 session assume that any changes to the prison population under a bill will occur in state prisons operated by the CDOC. LCS estimates a state beds cost of \$186.67 per day per bed, compared to the private prison reimbursement rate of \$66.52 per day per bed. Costs are calculated using the estimated state prison daily rate multiplied by the average length of stay, as determined by the Division of Criminal Justice, for the affected crime classification. Costs are estimates only; actual appropriations are determined through the annual budget process based on the prison population forecast.

### State Revenue

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The bill reduces revenue to the Offender Surcharge Cash Fund by \$45,000 in FY 2027-28 and \$98,000 in future years due to individuals being sentenced to the CDOC instead of probation. Currently, offenders sentenced to probation pay a monthly \$50 supervision surcharge, which is assessed as one lump sum upon sentencing. The amounts listed above take into account current indigency rates and collection rates of the department. This revenue is subject to TABOR.

### State Expenditures

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The bill increases state expenditures in the Department of Corrections by about \$16.3 million in FY 2027-28, and by increasing amounts in future years. It also decreases state expenditures in the Judicial Department by about \$560,000 per year starting in FY 2027-28. These expenditure changes come from the General Fund, are shown in Table 2, and described in the sections below.

**Table 2  
 State Expenditures  
 All Departments**

<b>Department</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Department of Corrections	\$0	\$16,284,157
Judicial Department	\$0	-\$562,430
<b>Total Costs</b>	<b>\$0</b>	<b>\$15,721,727</b>

**Department of Corrections**

Legislative Council Staff is required to analyze long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections.

**CDOC Prison and Parole Costs (Five-year Fiscal Impact)**

Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the CDOC by a total of \$155.1 million over the five-year period from FY 2026-27 to FY 2030-31. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Once an offender is released from prison, they are assigned to parole. The parole impact is assumed to first occur in FY 2028-29. Table 2A shows the estimated cost of the bill over the next five fiscal years.

The annual costs are expected to peak in FY 2038-39 at \$70.5 million, when the sentencing changes made by the bill are estimated to have the maximum impact to prison and parole operating costs resulting in 983 additional average daily population in prisons and 417 additional average daily population on parole.

**Table 2A  
 State Expenditures  
 Prison and Parole Operating Costs**

<b>Fiscal Year</b>	<b>Prison ADP Impact</b>	<b>Prison Cost</b>	<b>Parole ADP Impact</b>	<b>Parole Cost</b>	<b>Total Cost</b>
FY 2026-27	0.00	\$0	0.00	\$0	\$0
FY 2027-28	239.00	\$16,284,157	0.00	\$0	\$16,284,157
FY 2028-29	479.68	\$32,682,781	-1.68	-\$14,091	\$32,668,690
FY 2029-30	655.45	\$44,658,961	61.55	\$516,242	\$45,175,203
FY 2030-31	803.45	\$54,742,875	147.90	\$1,240,534	\$55,983,408
<b>Total Five-Year Cost</b>		<b>\$148,368,774</b>		<b>\$1,742,684</b>	<b>\$150,111,459</b>

**CDOC Capital Construction Costs**

In addition to the five-year operating and parole impacts discussed above, state law requires that the General Assembly consider increased capital construction costs for the CDOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$331.4 million would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future CDOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

**Judicial Department**

The bill will decrease workload in the Division of Probation and increase workload in the trial courts and independent agencies that represent indigent clients within the department.

**Division of Probation**

Based on the assumed number of individuals who will be sentenced to the CDOC under the bill, and based on current case standards for a probation officer, the division will see a reduction of 6.3 FTE. This includes 4.8 FTE probation officers, 0.8 supervisor, and 0.7 support staff. It is assumed this reduction occurs starting in FY 2027-28 to account for sentencing timeframes.

**Table 2B  
 State Expenditures  
 Judicial Department**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>
Personal Services	\$0	-\$423,614
Operating Expenses	\$0	-\$8,064
Centrally Appropriated Costs	\$0	-\$130,752
<b>Total Costs</b>	<b>\$0</b>	<b>-\$562,430</b>
<b>Total FTE</b>	<b>0.0 FTE</b>	<b>-6.3 FTE</b>

**Trial Courts and Independent Agencies that Represent Indigent Clients**

To the extent the bill increases the amount of time to litigate cases—since offenders must be sentenced to the CDOC—workload to the trial courts and offices that represent indigent clients (Office of the State Public Defender and the Office of Alternate Defense Counsel) will increase.

The fiscal note assumes that these cases already involve a high degree of work, and that any net increase in workload will be minimal.

### **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 may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

### **TABOR Refunds**

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The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by \$45,000 in FY 2027-28. This estimate assumes the December 2025 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2027-28. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save in FY 2027-28, and any future years when the state is over its revenue limit.

### **Local Government**

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By mandating a sentence to the CDOC, the bill may increase workload and costs for district attorneys to prosecute these cases. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

### **Effective Date**

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The bill takes effect September 1, 2026, assuming no referendum petition is filed, and applies to offenses committed on or after this date.

### **State and Local Government Contacts**

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Corrections	Judicial	Public Safety
District Attorneys	Public Defender	Revenue

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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](#).