



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 26-1281: HOMICIDE CRIMINAL OFFENSES

Prime Sponsors:

Rep. Carter; Espenosa
Sen. Weissman; Hinrichsen

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Fiscal note status: This revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill reclassifies several offenses around first and second-degree murder, attempted murder, and vehicular homicide.

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

- State Expenditures
- 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	Out Year FY 2045-46
State Revenue	\$0	\$0	\$0
State Expenditures (General Fund)	\$0	\$0	-\$16,298,727
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill reclassifies and modifies the elements of first- and second-degree murder, attempted murder, and vehicular homicide, as described below.

Murder with Extreme Indifference

Under current law, one element of first-degree murder is “extreme indifference.” This is defined as when an individual knowingly engages in conduct with an attitude of universal malice manifesting extreme indifference to the value of human life generally that creates a grave risk of death to a person or persons, and which conduct causes the death of another person.

Under the bill, extreme indifference instead applies to conduct that causes the death of:

- more than one person;
- one person and also causes serious bodily injury to two or more persons by means of a deadly weapon;
- a child who is under 12; or
- a first responder engaged in the performance of their duties.

The bill considers each individual injured or killed as a separate violation.

If extreme indifference results in a single person’s death, the bill makes it second degree murder (a class 2 felony) with a sentence of three times the presumptive range and up to twice the maximum term. If a person is convicted of attempt of first- or second-degree murder for the conduct outlined above, the individual commits a class 3 felony.

Criminal Negligence

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. The class 1 misdemeanor traffic offense of use of mobile electronic device while driving that causes the death of another person is repealed. 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.

Vehicular Homicide

The bill makes the following aggravating circumstances for vehicular homicide offenses crimes of violence that are subject to enhanced sentencing, including committing the offense:

- after having twice been convicted for driving under the influence or while ability impaired;
- after having been previously convicted of vehicular homicide or vehicular assault;
- while eluding or attempting to elude a peace officer;
- while fleeing from the commission of another felony offense; and
- while driving at a high rate of speed creating an imminent risk of death or serious bodily injury to another.

The bill also creates the crime of negligent vehicular homicide when a person drives a motor vehicle with conduct amounting to criminal negligence and the conduct is the proximate cause of the death of another person, a class 5 felony.

Comparable Crime Analysis

Legislative Council Staff 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.

Prior Conviction Data

This section identifies comparable crimes and prior conviction data for the offenses in the bill.

First Degree Murder Extreme Indifference

This bill creates a new factual basis for the existing offense of first-degree murder by extreme indifference by having it apply in an expanded set of circumstances. From FY 2022-23 to FY 2024-25, 17 individuals have been convicted and sentenced for this offense. Of the persons convicted, 15 were male and 2 were female. Demographically, 11 were White, 4 were Black/African American, 1 was Hispanic, and 1 was classified as "Other."

First Degree Murder Extreme Indifference–Attempt

This bill reclassifies the existing offense of attempted first degree murder by extreme indifference from a class 2 felony to a class 3 felony. From FY 2022-23 to FY 2024-25, 109 individuals have been convicted and sentenced for this offense. Of the persons convicted, 105 were male, and 4 were female. Demographically, 66 were White, 28 were Black/African American, 10 were Hispanic, 1 was Asian, 1 was American Indian, and 3 were classified as "Other."

Vehicular Homicide

This bill makes vehicular homicide a crime of violence under certain aggravated circumstances and creates a new class 5 felony of negligent vehicular homicide. From FY 2022-23 to FY 2024-25, 205 individuals have been convicted and sentenced for this offense. Of the persons convicted, 166 were male and 39 were female. Demographically, 142 were White, 19 were Black/African American, 34 were Hispanic, 5 were Asian, 3 were American Indian, and 2 were classified as "Other."

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.

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

This section identifies assumptions on future rates of criminal case filings and convictions for offenses under the bill.

First Degree Murder to Second Degree Murder Extreme Indifference

The bill stipulates that second-degree murder extreme indifference is an offense where the individual's conduct resulted in the death of one person over the age of 12 and who is not a first responder. Of the 17 individuals sentenced for first degree murder of extreme indifference, 8 individuals had the sentence as the highest charged offense for that case. It is unknown the age or profession of these individuals, or if there were other individuals who had a serious bodily injury. Based on this data, the fiscal note assumes up to 3 individuals per year would be sentenced for a class 2 felony instead of a class 1 felony. A class 1 felony carries a sentence of life in prison without parole, while an extraordinary risk of harm class 2 felony has an average length of stay (ALOS) in the Colorado Department of Corrections (CDOC) of 204 months (17 years).

Murder Extreme Indifference—Attempt

The bill reclassifies attempted murder with extreme indifference from a class 2 felony to a class 3 felony. Based on the comparable crime data for attempt, 36 individuals were sentenced for attempt per year. However, 10 individuals (or about 3 per year) were also sentenced for first degree murder. Removing those individuals, the fiscal note assumes 33 individuals will be sentenced for a class 3 felony under the bill. The ALOS of an extraordinary risk of harm class 2 felony is 204 months (17 years) and an extraordinary risk of harm class 3 felony is 120 months (10 years).

Vehicular Homicide

The bill makes vehicular homicide a crime of violence and subject to sentence enhancements if certain aggravating factors exist. In addition, the bill reclassifies vehicular homicide from a class 3 or 4 felony to a class 5 felony if the person drove with conduct amounting to criminal negligence. It is unknown which sentences possessed the aggravating circumstances listed in the bill and which ones were a result of criminal negligence. However, the fiscal note assumes that the aggravating circumstances outlined in the bill capture conduct that results in prison sentences above the midpoint due to the seriousness of the offense. In addition, any increase in costs due to longer prison sentences may be counteracted by savings from offenses being found to be caused by criminal negligence. Overall, the fiscal note assumes that the impacts from changes to vehicular homicide offenses will be minimal.

Criminally Negligent Homicide and Texting while Driving Causing Death

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. For criminally negligent homicide, it is assumed that the circumstances included by the bill can already be prosecuted as criminally negligent homicide under current law. For use of a mobile electronic device while driving that causes death, the repeal is assumed to have a minimal impact based on the low number of convictions under current law.

Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

State Expenditures

The bill decreases state General Fund expenditures in the CDOC starting in FY 2036-37, as shown in Table 2, and minimally impacts workload in the Judicial Department, as described below.

CDOC Prison and Parole Costs

Based on the assumptions provided in the Comparable Crime Analysis section, this bill decreases prison operating costs for the CDOC as outlined in Table 2 below. 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. Based on the change in the average length of stay between offenses, savings is not expected to occur until FY 2036-37 for the changes related to attempted murder with extreme indifference, and FY 2044-45 for the reclassification of murder with extreme indifference. Once an offender is released from prison, they are assigned to parole. The parole impact is assumed to first occur in FY 2036-37. Because these costs are years out, the fiscal note uses the cost of a state-run bed instead of the jail backlog rate; however, savings will likely significantly vary from these amounts.

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

Fiscal Year	Prison ADP Impact	Prison Cost	Parole ADP Impact	Parole Cost	Total Cost
FY 2026-27	0.00	\$0	0.00	\$0	\$0
FY 2036-37	-1.16	-\$78,695	1.16	\$9,688	-\$69,008
FY 2037-38	-34.16	-\$2,327,136	34.16	\$286,482	-\$2,040,654
FY 2044-45	-237.26	-\$16,165,263	38.46	\$322,570	-\$15,842,693
FY 2045-46	-240.26	-\$16,369,666	8.46	\$70,939	-\$16,298,727
Total		-\$34,940,760		\$689,679	-\$34,251,081

ADP=Average Daily Population.

Judicial Department

Due to the various reclassification of crimes, and due to the fact that murder cases are already complex, the bill is expected to have minimal workload impacts on the trial courts and offices that represent indigent offenders. In addition, the fiscal note assumes that any additional cases sent to the CDOC for aggravating circumstances instead of probation will be counteracted by any cases sentenced to probation instead of CDOC due to criminal negligence. Therefore, any change in probation workload is also assumed to be minimal.

Local Government

Similar to the state, any change in workload to district attorney offices are assumed to be minimal. District attorney offices are funded at the county level.

Effective Date

The bill takes effect July 1, 2026, and applies to any offenses on or after this date.

State and Local Government Contacts

Corrections

Judicial

District Attorneys