



Legislative
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SB 19-100

FISCAL NOTE

Drafting Number: LLS 19-0162
Prime Sponsors: Sen. Gardner

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Bill Status: Senate SVMA
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Bill Topic: UNAUTHORIZED DISCLOSURE OF INTIMATE IMAGES ACT

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>minimal</i>)	<input checked="" type="checkbox"/> TABOR Refund (<i>minimal</i>)
<input checked="" type="checkbox"/> State Expenditure (<i>minimal</i>)	<input checked="" type="checkbox"/> Local Government (<i>minimal</i>)
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill creates the Uniform Civil Remedies For Unauthorized Disclosure of Intimate Images Act. It increases state and local revenue and workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill creates the Uniform Civil Remedies For Unauthorized Disclosure of Intimate Images Act. The bill defines various terms related to intimate images, the civil action that may be taken by an individual whose private image was disclosed without consent or threatened to be disclosed, remedies, and establishes a statute of limitations for the civil action.

Cause of civil action. A person who is identifiable in the image and has suffered harm from the intentional disclosure or threat of disclosure of an intimate image that was private and done without consent has cause to pursue a civil action. In such action, the plaintiff may use a pseudonym in place of his or her true name and the court may exclude or redact any identifying characteristics of the plaintiff. The court is also authorized to make any orders necessary to protect the identity and privacy of the plaintiff.

Remedies. A prevailing plaintiff in a civil disclosure of intimate images action may recover the greater of \$10,000 from each defendant found liable for the disclosure or threat of disclosure of intimate images or the economic and non-economic damages caused. In determining the amount of statutory damages, considerations must be given to the age of the parties, the number of disclosures or threatened disclosures, the extent of the distribution of the image disclosure, and any other mitigating circumstances. Reasonable attorney fees and costs and additional relief including injunctive relief may also be awarded.

Exemptions. An individual is not liable for the disclosure of or threat to disclose intimate images if the image was made in good faith in the reporting or investigation of a law enforcement, legal, or medical education or treatment proceeding.

Statute of limitations. This bill creates a four year statute of limitations for bringing a civil action from the date the disclosure of intimate images was or should have been discovered or the threat of disclosure was made. If the individual depicted in the image is a minor, the four year statute of limitations begins when he or she turns 18.

Background and Assumptions

To form an estimate on the number of civil cases that may be filed under this bill, data was analyzed on the posting of private images for harassment or pecuniary gain, both of which are a class 1 misdemeanor. Between January 2016 and December 2018 there were 245 cases filed (82 cases per year) of a defendant being charged with the posting a private image for harassment or pecuniary gain. Using this as a proxy and given that a judicial officer can handle 541 civil cases per year, any impacts resulting from this bill are assumed to be minimal.

State Revenue

Beginning in the current FY 2018-19, this bill increases state cash fund revenue from civil filing fees by a minimal amount. The exact revenue impact will depend on the number of civil cases resulting from the bill and the amount of damages sought and has not been estimated. For informational purposes, the civil filing fee for county court ranges from \$85 to \$135 depending on the amount of damages sought and the filing fee for district court is \$235. Civil cases seeking damages of less than \$25,000 may be filed in county or district court, while cases seeking damages over \$25,000 must be filed in district court. Civil filing fees are subject to TABOR.

State Expenditures

Beginning in the current FY 2018-19, by creating a civil action for the intentional disclosure or threat of disclosure of a private intimate image, this bill increases trial court workload by a minimal amount. Based on the assumption listed above, it is assumed that this workload increase can be accomplished within existing appropriations.

TABOR refunds. The bill is expected to increase state General Fund obligations for TABOR refunds by a minimal amount in FY 2019-20. Under current law and the December 2018 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Similar to the state, beginning in the current FY 2018-19, this bill increases revenue and workload for Denver County Court for any civil actions with damages under \$25,000 commenced within the City and County of Denver. This impact is expected to be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature and applies to acts committed on or after the effective date.

State and Local Government Contacts

Judicial Law