



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1147

FISCAL NOTE

Drafting Number: LLS 20-0676 Date: February 3, 2020
Prime Sponsors: Rep. Buckner; Ransom Bill Status: House Judiciary
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Bill Topic: REASONABLE INDEPENDENCE FOR CHILDREN IN ACTIVITIES

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

This bill clarifies that allowing a child of sufficient maturity and ability to do certain independent activities are not grounds for determining child abuse or neglect. The bill affects state and local government workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under current law, a child is neglected or dependent if the child's environment is injurious to the child's welfare. This bill clarifies that an environment is injurious when a parent or guardian has placed a child in, or failed to remove the child from, a situation where there is the potential for bodily injury that a reasonable person would realize requires judgement or actions above a child's capabilities.

- traveling to and from school;
traveling to and from nearby commercial or recreation facilities;
engaging in outdoor play;
remaining at home unattended; and
remaining in a vehicle for less than 15 minutes if it is not dangerously hot or cold.

Finally, the bill clarifies that a person exercising reasonable judgement, as described above, is not guilty of the crime of child abuse.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

**Prior conviction data and assumptions.** This bill modifies the current crime of child abuse, which ranges from a class 3 misdemeanor to a class 2 felony. To form an estimate on the impact of modifying this offense, the fiscal note analyzed the existing offense of child abuse where no death or injury results, which can range from a class 1 misdemeanor to a class 3 misdemeanor, as a comparable crime. From FY 2017-18 to FY 2019-20, 1,580 offenders have been sentenced and convicted for this existing offense, including 1,286 who were White, 142 who were African American, 81 who were Hispanic, 19 who were Asian, 34 who were Native American, 16 who were listed as "Other", and 2 where race was not identified. Of those sentenced, 735 were male, 844 were female, and there was 1 case where gender was not identified. It is unknown how many of these cases were the result of allowing a child to engage in the activities under the bill, but it is assumed that most criminal cases of child abuse and neglect involve serious harm or neglect of a child; therefore, the bill will likely have a minimal impact in case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

## State Expenditures

Starting in FY 2020-21, workload to the Office of the Child's Representative, the Office of the Respondent Parents' Counsel, and the trial courts may increase to the extent the additional criteria on what constitutes child abuse and neglect increases litigation time. Conversely, to the extent fewer dependency and neglect cases are brought forward by excluding certain activities as constituting abuse or neglect, workload to these agencies will decrease. Because it is unknown how the bill will affect the number of cases and the length of cases, the fiscal note assumes that any change in appropriations will be requested through the annual budget process.

## Local Government

To the extent that county department of human services caseworkers and county attorneys are involved in cases related to the bill, workload may increase due to increased litigation of cases, or may decrease if there are fewer dependency and neglect cases.

## Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

## State and Local Government Contacts

Counties      Human Services      Information Technology      Judicial