



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated May 24, 2021)

**Drafting Number:** LLS 21-1009 **Date:** June 3, 2021  
**Prime Sponsors:** Rep. Tipper; Benavidez **Bill Status:** House Appropriations  
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**Bill Topic:** SUNSET SEX OFFENDER MANAGEMENT BOARD

**Summary of Fiscal Impact:**

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

**Sunset Bill.** House Bill 21-1320 continues the Sex Offender Management Board in the Department of Public Safety, which is scheduled to repeal on September 1, 2021. State fiscal impacts under the bill include the continuation of the program's current revenue and expenditures, as well as new state workload impacts. The program is continued through September 1, 2027.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee.

**Table 1**  
**State Fiscal Impacts Under HB 21-1320<sup>1</sup>**

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2023-24
<b>New Impacts</b>				
Revenue		-	-	-
Expenditures		-	-	-
TABOR Refund		-	-	-
<b>Continuing Impacts</b>				
Revenue	Cash Funds	-	\$139,341	\$152,008
Expenditures	General Funds	-	\$420,599	\$458,835
	Cash Funds	-	\$139,341	\$152,008
<b>Continuing Costs</b>		-	<b>\$559,940</b>	<b>\$610,843</b>
<b>Continuing FTE</b>		-	<b>5.6 FTE</b>	<b>6.1 FTE</b>
TABOR Refund		-	-	-

<sup>1</sup> Table 1 shows the continuing impacts from extending the program beyond its current repeal date. New impacts under the bill, as described in the State Expenditures section, are expected to be minimal. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

## **Summary of Legislation**

The bill extends the repeal date of the Sex Offender Management Board (SOMB) in the Department of Public Safety (DPS) until September 1, 2027, renames the board to the Sex Offense Management Board, and makes several changes to the board. First, on August 31, 2022, the bill reorganizes the SOMB to consist of 12 voting members to carry out the duties of the SOMB and a 14 non-voting member task force to meet with and provide information and input to voting members. In addition to the reorganization, the bill updates the duties of the SOMB to include:

- ensuring that treatment is responsive to linguistic, cultural, religious, racial, sexual, and gender identity characteristics;
- developing guidelines and standards to remove any requirements for polygraph testing;
- allowing the board to provide grants or scholarships through gifts, grants, or donations received in the Sex Offender Surcharge Fund to diversify the field of sex offender treatment providers; and
- requiring the SOMB to study and make recommendations to the General Assembly on a model for a three-tier risk level system for sex offenders, with a reporting deadline of January 31, 2022.

**Sex offenders in the Department of Corrections.** The Department of Corrections (DOC) must identify all inmates who have a need for sex offender treatment and who have not received it. The DOC must work with the SOMB and the Division of Parole to develop solutions to address unmet treatment needs.

**List of eligible providers.** The bill requires that sex offenders receive a list of all eligible providers and no longer exempts supervising agencies from providing access to all available provider based on certain circumstances. Instead, a supervising agency can recommend treatment providers based upon the nature of the program offered, the needs of the adult or juvenile, or the proximity of the treatment provider's agency. When possible, clients who prefer to receive treatment in another language than English must receive that treatment. These requirements do not apply to the Division of Youth Services.

**Treatment for direct-filed juveniles.** The bill allows juveniles who are direct-filed to be treated under the juvenile treatment guidelines rather than adult guidelines.

**Removal from eligible treatment provider list.** The SOMB must maintain a record of any denial or removal from the SOMB's provider list due to a treatment provider's criminal history. When reviewing the list, evaluators under disciplinary action that would impede the applicant's ability to practice as a treatment provider must be removed from the list. The SOMB must remove the treatment provider from the list if the Department of Regulatory Agencies or the provider's licensing board renders the individual ineligible to provide services.

**"Sexually violent predators."** The bill eliminates the usage of the term "sexually violent predator" in various sections of statute, community notifications, and the sex offender registry and makes several changes concerning these offenders. First, the bill removes the ability to label someone a "sexually violent predator" based on a risk assessment and repeals the requirement that law enforcement verify the residential address of these offenders quarterly; instead, they will be checked annually as under current law for other sex offenders who are required to register.

**Presentence report.** The bill allows any sex offender evaluation to be dispensed with by a court, with concurrence of the defendant and the prosecuting attorney; but retains requirements for specific information and a victim impact statement.

## Continuing Program Impacts

Based on the Senate Bill 21-205 (FY 2021-22 Long Bill), the DPS is expected to have revenue of \$152,008 and expenditures of \$610,843 to administer the SOMB and program. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2022-23. This continuing revenue is subject to the state TABOR limit. If this bill is not enacted, the program will end on September 1, 2022, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2022-23 by the amounts shown in Table 1, above. Costs in FY 2022-23 are prorated for the board's September 1 repeal date.

## State Revenue

Starting in FY 2021-22, the bill will increase revenue to the extent the SOMB receives gift, grants, and donations to implement grants to diversify sex offender treatment providers. At the time of this writing, no sources for gifts, grants, and donations have been identified. Gifts, grants, and donations are not subject to TABOR.

## State Expenditures

Starting in FY 2021-22, the bill will impact state workload in the Judicial Department, the DOC, and the DPS, as described below.

**Judicial Department.** Workload in the trial courts will increase to the extent more individuals petition to get their names removed from the registry as a result of the bill's removal of the lifetime registry requirement for individuals labeled as "sexually violent predators." The increase in workload can be accomplished within existing appropriations.

**Department of Corrections.** To the extent less individuals have their parole revoked, costs in the DOC will decrease. Workload will also increase for DOC and the Parole Board to identify inmates in need of sex offender treatment and to work with the SOMB on solutions. Any change in appropriations will be requested through the annual budget process, if necessary.

**Department of Public Safety.** Workload in the DPS is impacted in a few ways. First, workload will increase to conduct a study and make recommendations on a three-tier risk level system for sex offenders. Second, the department will have to update the sex offender registry to reflect the changes under the bill. Overall, these impacts are expected to be minimal and no change in appropriations are required.

## Local Government

Workload to local law enforcement agencies will decrease to no longer provide certain community notification about an offenders status as a sexually violent predators and to verify their residential address annually, rather than quarterly. In addition, expenditures in sheriff departments will decrease to the extent the bill decrease the number of parole revocations.

## Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, except that sections 11 through 14 take effect July 1, 2023.

## State and Local Government Contacts

Corrections  
Information Technology  
Regulatory Agencies

District Attorneys  
Judicial

Human Services  
Public Safety