



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 16, 2021)

Drafting Number:	LLS 21-0257	Date:	March 05, 2021
Prime Sponsors:	Sen. Hisey; Zenzinger Rep. Larson; Bradfield	Bill Status:	House Judiciary
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Bill Topic: **SEXUAL CONTACT BY AN EDUCATOR**

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

This bill creates a class 1 misdemeanor offense for the abuse of public trust by an educator. Starting in FY 2021-22, the bill minimally increases state and local government revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

Summary of Legislation

This bill creates a class 1 misdemeanor offense and extraordinary risk crime for the abuse of public trust by an educator for engaging in sexual contact with a student over the age of 18, if certain conditions are met. Specifically, if the offense is committed by any educator, including a teacher, administrator, counselor, or coach, who:

- subjects a student 18 years or older to sexual contact;
- is employed at the same preschool through 12th grade school that the student attends at the time of the sexual contact;
- is more than 4 years older than the student; and
- is not the student's spouse.

The offense may be punished with up to 30 months imprisonment. Consent by the student is not a defense to the crime. Schools must advise all employees of the prohibitions under this bill.

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 creates the offense of abuse of public trust by an educator, a class 1 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of sexual assault on a person ages 15 to 18 by someone in a position of trust as a comparable crime. From 2018 to 2020, 330 persons have been convicted and sentenced for this existing offense. Of the persons convicted, 320 were male, 9 were female, and 1 did not have a gender identified. Demographically, 259 were White, 24 were African American, 39 were Hispanic, 3 were Asian, 1 were American Indian, and 4 were classified as "Other".

Assumptions. While this bill creates a new misdemeanor offense, it is assumed the number of cases that will result from the bill will be minimal due to the narrow definitions of victim and offender.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue and Expenditures

Based on the assumptions above, this bill is expected to have a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons are assumed to be minimal and no change in appropriations is required.

Local Government

Similar to state, this bill is expected to have a minimal impact on local government agencies. Potential local government impacts are explained in more detail below.

District attorneys. It is expected that any workload or cost increase for district attorneys to prosecute the new class 1 misdemeanor under the bill will be minimal. District Attorney Offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. For the current fiscal year, the state reimburses county jails at a daily rate of \$57.97.

Denver County Court. The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

Effective Date

The bill takes effect September 1, 2021, if no referendum petition is filed, and applies to offenses committed on or after the effective date.

State and Local Government Contacts

Alternate Defense Counsel
Corrections
District Attorneys
Human Services
Judicial
Office of the Child's Representative
Public Safety
Sheriffs

Child Protection Ombudsman
Counties
Education
Information Technology
Law
Public Defender
School Districts