



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

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<b>Drafting Number:</b>	LLS 23-0510	<b>Date:</b>	June 23, 2023
<b>Prime Sponsors:</b>	Rep. Bacon; Amabile Sen. Gonzales; Fields	<b>Bill Status:</b>	Signed into Law
		<b>Fiscal Analyst:</b>	Aaron Carpenter   303-866-4918 aaron.carpenter@coleg.gov

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<b>Bill Topic:</b>	<b>ALTERNATIVES IN CRIMINAL JUSTICE SYSTEM &amp; PREGNANT PERSONS</b>
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<b>Summary of Fiscal Impact:</b>	<input 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

The bill limits when the courts may detain or incarcerate a pregnant person or a person in a postpartum period. The bill increases state and local expenditures beginning in FY 2023-24, and may minimally decrease state expenditures beginning in FY 2024-25.

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<b>Appropriation Summary:</b>	No appropriation is required.
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<b>Fiscal Note Status:</b>	The fiscal note reflects the enacted bill.
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## Summary of Legislation

The bill creates a presumption against detention and incarceration of a pregnant or postpartum person, if the defendant provides the court and district attorney with notice of the defendant's status as pregnant or postpartum. It requires the court to only detain or incarcerate the defendant if the court makes a specific finding that the defendant poses a substantial risk to the public and that risk outweighs the risk of incarceration.

The bill does not make the defendant eligible for any sentence that they would have been ineligible for under current law. The presumption is applied to determining bond, diversion agreements, deferred judgments, probation, alternative sentences, and stays of execution. During the course of a trial, a pregnant or postpartum defendant may raise the issue of pregnancy or a postpartum period and must provide related evidence to the district attorney. The court must hold a hearing if the district attorney contests that the defendant is pregnant.

The bill requires staff at a county jail, in the Department of Corrections (DOC), or a juvenile detention facility to provide a pregnancy test to any adult or juvenile who requests one.

## State Expenditures

The bill increases workload in the Judicial Department and may decrease expenditures in the DOC and the Department of Human Services (DHS) starting in FY 2024-25, as described below.

**Judicial Department.** The bill increases trial court workload to make specific findings, as required by the bill, and may increase workload to the Probation Division to the extent the bill results in additional sentences to probation. This work can be accomplished within existing appropriations.

**Department of Corrections.** Starting in FY 2023-24, the bill may decrease DOC expenditures to the extent more individuals are given an alternative sentence in lieu of a sentence of incarceration in the DOC. As discussed in the Assumptions section, the DOC sees an average of 23 new pregnant commits per year. Because future sentencing decisions cannot be estimated, this amount cannot be determined.

To the extent an order for incarceration is stayed or furlough is granted, costs will shift to future fiscal years. For informational purposes, currently the average daily cost to the DOC to operate a prison bed is \$74.25 or \$155.52 per day depending on if the offender is in a privately run or state-run facility.

Finally, the DOC currently provides pregnancy tests upon request after admission to a correctional facility within 24 hours of the request; therefore, the provision of the bill requiring pregnancy tests can be accomplished within existing appropriations.

**Department of Human Services.** Starting in FY 2023-24, to the extent juveniles are given an alternative sentence in lieu of detention or commitment in a Division of Youth Services facility, costs to the DHS will decrease. Finally, the DHS currently provides pregnancy tests upon request after admission to a correctional facility within 24 hours of the request; therefore, the provision of the bill requiring pregnancy tests can be accomplished within existing appropriations.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

## Other Budget Impacts

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

## Local Government

**District attorneys.** Similar to the state, to the extent the bill results in more hearings to determine if an alternative sentence is appropriate or if a defendant violated conditions of release, district attorney workload will increase.

**County jails.** Starting in FY 2023-24, costs in county jails will decrease as offenders are furloughed or have their sentences stayed. In addition, to the extent additional defendants are given an alternative sentence in lieu of incarceration in a county jail, or that additional defendants are released on bond, costs to county jails will decrease. To the extent a county jail must provide a pregnancy test and is not already providing tests upon request, costs will increase.

**Denver County Court.** Similar to the state, to the extent there are additional hearings under the bill, Denver County Court workload will increase.

## Effective Date

The bill was signed into law by the Governor on May 23, 2023, and takes effect on August 7, 2023, assuming no referendum petition is filed.

## State and Local Government Contacts

Corrections  
Information Technology

District Attorneys  
Judicial

Human Services  
Public Safety