



Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 23-0282	Date:	January 23, 2023
Prime Sponsors:	Sen. Fields; Pelton B.	Bill Status:	Senate Judiciary
		Fiscal Analyst:	Clayton Mayfield 303-866-5851 clayton.mayfield@coleg.gov

Bill Topic: DEFINITION OF SERIOUS BODILY INJURY

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

The bill amends the definition of “serious bodily injury.” Beginning in FY 2023-24, the bill minimally impacts state and local workload.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill amends the definition of “serious bodily injury” to include injuries that pose a substantial risk of harm specifically associated with the type of injury sustained by the victim or intended by the perpetrator. Firearm wounds and knife wounds are also added.

Background

People v. Vigil, 488 P.3d 1150 (Colo. 2021) held that facts of an actual injury control whether or not the injury meets the definition of “serious bodily injury,” rather than the risk associated with the type of injury. In that case, the Colorado Supreme Court found that a knife wound to the neck that missed all vital structures did not meet the current statutory definition of “serious bodily injury.”

Comparable Crime Analysis

Causing serious bodily injury is an element of many criminal offenses, including assault, sexual assault, vehicular assault, and child abuse, among others. Conviction and demographic data for specific offenses are available upon request. The changes to the definition of serious bodily injury under the bill are not expected to have a significant impact on the number of cases or convictions for

existing criminal offenses, but may affect the level or type of offenses charged in some instances. Overall, the fiscal note assumes a minimal impact to the criminal justice system. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

By modifying the definition of “serious bodily injury,” an element involved in many existing misdemeanor and felony offenses, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2023-24, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for offenses varies depending on the exact type and level of offense. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

State Expenditures

Beginning in FY 2023-24, the bill will increase workload in the Judicial Department and may increase costs in the Department of Corrections.

Judicial Department. Cases involving the types of injuries included by the bill are already filed under existing statutes; therefore, any trial court workload increase is expected to be minimal. Since cases may result in increased penalties in some situations, the Probation Division may be impacted in two offsetting ways: fewer persons sentenced to probation who are instead sentenced directly to the Department of Corrections, and more persons sentenced to probation if municipal cases are moved to a higher court. Overall, any probation impact is expected to be minimal and no change in appropriations is required.

Department of Corrections. The bill may increase expenditures in the Department of Corrections in two ways from expanding the definition of serious bodily injury. First, more persons may be sentenced to incarceration in state prison, rather than some alternative sentence such as probation. Second, in some cases, the length of sentences may increase for cases that currently do not involve serious bodily injury under the current definition. As discussed in the Comparable Crime Analysis, the number of overall cases impacted by this is assumed to be minimal and any adjustments will be addressed through the annual budget process.

Local Government

The bill will have a minimal impact on district attorney offices, the Denver County Court, and county jails. Changing the definition will generally not impact the number of cases prosecuted by district attorneys and heard in Denver County Court, but may affect the time these cases take in some instances. For county jails, changing the definition may potentially increase the period of incarceration in county jails for some misdemeanor offenses, or shift some individuals from county jail to the Department of Corrections.

Effective Date

The bill takes effect July 1, 2023.

State and Local Government Contacts

Corrections

District Attorneys

Judicial