



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

SB 18-015

**FINAL
FISCAL NOTE**

Drafting Number:	LLS 18-0423	Date:	September 6, 2018
Prime Sponsors:	Sen. Gardner; Hill Rep. Williams D.; Liston	Bill Status:	Signed into Law
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Bill Topic: PROTECTING HOMEOWNERS AND DEPLOYED MILITARY

Summary of Fiscal Impact:

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

This bill creates an alternate process to remove an unauthorized person (occupant) from a residential property and associated civil penalties for certain prohibited behavior. The bill may both increase and decrease workload by a minimal amount for the Judicial Department and local governments on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill creates an alternate process to remove an unauthorized person (occupant) from a residential property. The owner or his or her authorized agent (declarant) may initiate the investigation of and request the removal of an occupant by filing a compliant and a verified motion for a temporary mandatory injunction restoring possession of the property to the declarant, with the county court. The court must consider the complaint and motion and hold a hearing as soon as practicable, no later than the next court date from the filing.

Delivery of notice. Within 24 hours of receipt, the summons, complaint, motion, and notice must be served or posted following the bill's requirements. An occupant who disputes that he or she is unauthorized may appear at the hearing and provide testimony or other evidence to the court. The court may not require the appointment of an attorney to represent an occupant. If the court enters an order for the temporary mandatory injunction and writ of restitution, the sheriff must enforce the order within 24 hours.

Property damage. If the motion filed with the county court includes a statement that the property has been altered or damaged and the sheriff sees evidence of such, he or she is required to collect personal information from the occupant and provide that information to the declarant.

Penalties. A declarant who provides false information in the declaration may be subject to sanctions, held in contempt of court, or prosecuted for perjury in the first or second degree, or false swearing. An occupant who is removed from a residential property under the process created by this bill and who knowingly damages the property of one or more other persons may have committed criminal mischief.

Civil liability. A declarant who provides false information that results in the removal of an occupant may be subject to a private cause of action by the occupant and liable to the occupant for actual damages, attorney fees, and costs.

Comparable Crime and Assumptions

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 the existing crime that creates a new factual basis for the offense. Under current law, a person who is illegally occupying property can be charged with criminal trespass in the first, second, or third degree. In situations where there is a question about the legality of an occupant, civil eviction proceedings may occur in lieu of criminal prosecution. Perjury and false swearing are also crimes under current law. If a person has caused damage to residential property, he or she may be charged with criminal mischief. Depending on the value of the damage, the penalty for this crime can be up to a class 3 felony. As of this writing, the number of eviction cases related to unauthorized occupants not addressed through the criminal process is unknown. It is also unknown how many persons could be subject to the new crime of unauthorized alteration or damage of a residential property and how that may impact criminal mischief filings.

Criminal trespass. Over the past three calendar years, there were 7,401 convictions of criminal trespassing, ranging from petty offenses to class 4 felonies. The gender data for these offenders included 6,046 males, 1,351 females, and 4 unclassified. The racial data for these offenders included 6,234 Caucasian, 599 African Americans, 391 Hispanic, 71 other, 57 Indian and 49 Asian. The number of offenders convicted of criminal trespass under conditions similar to this bill is unknown.

Perjury and false swearing. Over the past three calendar years, there were 156 convictions of perjury or false swearing, ranging from petty offenses to class 4 felonies. The gender data for these offenders included 87 males and 69 females. The racial data for these offenders included 140 Caucasian, 10 African Americans, 3 Asian, 1 Hispanic, 1 Indian, and 1 other. The number of offenders convicted of perjury or false swearing for cases with conditions similar to this bill is unknown.

Assumptions. The fiscal note assumes that in the majority of cases, criminal penalties for perjury, false swearing, criminal trespass and criminal mischief will continue to be charged as permitted under current law. There may be a minimal increase in civil and criminal filings related to declarants who provide false information.

State Revenue

Beginning in FY 2018-19, and if additional filings occur related to a declarant providing false information, civil filings may increase, resulting in an increase in fee revenue by a minimal amount. Filing fee revenue is primarily deposited into various cash funds, with a small portion credited to the General Fund.

TABOR Refund

The bill may increase revenue subject to TABOR by a minimal amount in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased or reduced based on the net change in state revenue as a result of the bill.

State Expenditures

Beginning in FY 2018-19, the bill may both increase and decrease workload for the Judicial Department.

Trial courts. If fewer eviction cases are filed, which are assumed to take longer than the process created by this bill, workload will decrease. If additional filings occur related to a declarant providing false information, civil filings may increase, resulting in an increase in workload. Overall, these impacts are assumed to be minimal and do not require any adjustments in appropriations for the trial courts.

Local Government

Similar to the state, workload will increase for the Denver County Court to respond to any civil filings related to a declarant providing false information. Workload will decrease if this alternate process is used rather than the current eviction process. Overall these impacts are assumed to be minimal. The fiscal note assumes that the workload for enforcing eviction orders under current law compared to the new orders created by the bill is relatively comparable, resulting in no change in workload for sheriffs.

Effective Date

The bill was signed into law by the Governor on June 6, 2018, took effect July 1, 2018, and applies to requests for removal and offenses committed on or after this date.

State and Local Government Contacts

Counties	District Attorneys	Information Technology
Judicial	Military Affairs	Municipalities
Sheriffs		