



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 18-0168      **Date:** August 21, 2018  
**Prime Sponsors:** Sen. Gardner      **Bill Status:** Signed into Law  
                                  Rep. Carver; Benavidez      **Fiscal Analyst:** Kerry White | 303-866-3469  
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**Bill Topic:** FALSE IMPRISONMENT OF A MINOR

**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 increases the penalty for false imprisonment of a minor. It increases state revenue and state expenditures on an ongoing basis, and increases local government workload. Local government revenue and expenditures are also decreased on an ongoing basis.

**Appropriation Summary:** The bill requires and includes five-year appropriations of \$174,751 to the Department of Corrections.

**Fiscal Note Status:** The fiscal note reflects the enacted bill.

**Table 1  
State Fiscal Impacts Under SB 18-119**

		FY 2018-19	FY 2019-20
<b>Revenue</b>	General Fund and Cash Funds	less than \$5,000	less than \$5,000
<b>Expenditures</b>	General Fund	\$22,072	\$34,677
<b>Transfers</b>		-	-

## **Summary of Legislation**

This bill increases the penalty for false imprisonment from a class 2 misdemeanor to a class 5 felony when the person confines or detains a person under the age of 18:

- in a locked or barricaded room under circumstances that cause bodily injury or serious emotional distress and the confinement or detention was part of a continued pattern of cruel punishment or unreasonable isolation or confinement of the child; or
- by means of tying, locking, caging, chaining, or otherwise restricting the minor's freedom of movement for any length of time under circumstances that pose a risk of bodily injury or serious emotional distress.

The bill clarifies that the statutory privilege between a patient and a physician or his or her spouse is not available for the purpose of excluding or refusing testimony in any prosecution for false imprisonment.

## **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. This bill increases the penalty for certain instances of false imprisonment. Under current law, false imprisonment is a class 2 misdemeanor. The crime is a class 5 felony if the person uses force or threat of force to confine or detain another person or when the confinement is longer than 12 hours. Over the past three years, there were 501 convictions of false imprisonment, including 43 felony cases and 458 misdemeanor cases. Of this number, 466 were male and 35 were female. The racial composition of these offenders included: 417 Caucasian, 32 Hispanic, 31 African American, 11 Asian, 6 Other, and 4 Indian. It is unknown how many of these offenses included juveniles and met the thresholds established under this bill. The fiscal note assumes that at least one person per year will be sentenced for a class 5 felony rather than a class 2 misdemeanor.

## **State Revenue**

Beginning in FY 2018-19, this bill is anticipated to result in a net increase in state revenue by less than \$5,000 per year.

**Criminal fines.** The bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 5 felony is \$1,000 to \$100,000, whereas the fine penalty for a class 2 misdemeanor is \$250 to \$1,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed by the courts, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

**Court and administrative fees.** The bill will also increase state fee revenue credited to the General Fund and various cash funds by a minimal amount for cases that are heard in district court (felony) rather than county court (misdemeanor). Revenue may also decrease if fewer people are sentenced to probation under the bill.

## **TABOR Refund**

The bill increases state revenue subject to TABOR by less than \$5,000 in FY 2018-19 and less than \$5,000 in 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.

## **State Expenditures**

Beginning in FY 2018-19, this bill increases state General Fund expenditures for the Department of Corrections. The five-year appropriation estimate is at least \$174,751. The bill also increases workload and costs for agencies within the Judicial Department and the Department of Regulatory Agencies, as discussed below.

**Judicial Department.** By moving some cases from county court (misdemeanor) to district court (felony), trial court workload will increase. Additionally, if the potential for incarceration motivates some individuals to take their cases to trial rather than agree to a plea bargain, workload will increase. These amounts are assumed to be minimal and can be accomplished within existing appropriations.

**Agencies that provide representation to indigent offenders.** Increasing the penalty for certain instances of false imprisonment increases costs for agencies that represent indigent offenders, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. As of this writing, these impacts are assumed to be minimal. If either office requires an increase in appropriations in the future due to case volume, they can request them through the annual budget process.

**Department of Regulatory Agencies.** The department will have a minimal increase in workload to conduct rulemaking and to communicate the changes in statutory privilege to health care providers. This workload increase can be accomplished within existing appropriations.

**Department of Corrections.** This bill increases prison bed and parole costs for the DOC by \$22,072 in FY 2018-19 and \$34,677 in FY 2019-20.

**Prison beds.** This increase assumes at least 1 offender will be sentenced to prison for a class 5 felony every year and have an average length of stay of 17.4 months. The fiscal note assumes that impacts will occur in the first year because of the bill's effective clause. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2  
Prison Costs Under SB 18-119**

	<b>Inmate Bed Impact</b>	<b>Operating Cost</b>
FY 2018-19	1.00	\$22,072
FY 2019-20	1.45	\$32,077
FY 2020-21	1.45	\$32,077
FY 2021-22	1.45	\$32,077
FY 2022-23	1.45	\$32,077
<b>Total Cost</b>		<b>\$150,380</b>

**Parole.** Once an offender is released from prison, he or she is assigned to parole and have an average length of stay of 18.3 months. Table 3 shows the estimated impact on parole over the next five fiscal years. No impact is expected until the first year's cohort of offenders is released to parole.

**Table 3  
Parole Costs Under SB 18-119**

	<b>Annualized Parole Impact</b>	<b>Annualized Operating Cost</b>
FY 2018-19	0.00	-
FY 2019-20	0.55	\$2,600
FY 2020-21	1.53	\$7,257
FY 2021-22	1.53	\$7,257
FY 2022-23	1.53	\$7,257
<b>Total Cost</b>		<b>\$24,371</b>

For additional information about costs in fiscal notes for bills affecting the Department of Corrections, please visit: [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes).

**Local Government**

Overall, this bill is expected to increase local government workload and reduce revenue and costs as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

**District attorneys.** The bill increases workload and costs for district attorneys to prosecute cases as felonies, which are more complex than misdemeanor cases.

**County jails.** Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. This bill will result in some existing misdemeanor cases being tried as felonies, and may result in fewer sentences to county jail, reducing revenue and costs. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day.

**Denver County Court.** The bill results in an reduction in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try fewer misdemeanor false imprisonment cases under the bill. Probation services in the Denver County Courts may also experience a minimal decrease in workload and revenue to supervise fewer persons.

**Effective Date**

The bill was signed into law by the Governor on May 29, 2018, and took effect on August 8, 2018.

**State Appropriations**

The bill requires and includes appropriations of \$174,751 General Fund to the Department of Corrections for fiscal years 2018-19 through 2023-24, which includes \$150,380 for prison beds and \$24,371 for parole.

**State and Local Government Contacts**

Corrections  
Information Technology

District Attorneys  
Judicial

Human Services  
Regulatory Agencies