



Legislative Council Staff

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FISCAL NOTE

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Prime Sponsors: Sen. Danielson; Ginal Bill Status: Senate HHS
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Bill Topic: PROTECT FROM UNLAWFUL ABANDONMENT AND CONFINEMENT

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

The bill increases the penalty for caretaker neglect and creates the offenses for the unlawful abandonment or confinement of an at-risk person. The bill increases state and local revenue and expenditures on an ongoing basis. The bill also requires a one-time General Fund transfer.

Appropriation Summary: For FY 2019-20, the bill requires a five-year appropriation of \$358,226 to the Department of Corrections.

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

Table 1
State Fiscal Impacts Under SB 19-172

Table with 4 columns: Category, Sub-category, FY 2019-20, FY 2020-21. Rows include Revenue, Expenditure (General Fund), Transfer (General Fund, Cash Funds), and TABOR Refund.

Summary of Legislation

Under current law, a person who commits caretaker neglect against an at-risk person commits a class 1 misdemeanor. This bill increases the penalty for caretaker neglect to a class 6 felony and expands crimes against an at-risk person by creating new offenses for unlawfully abandoning or confining an at-risk person.

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. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

Prior conviction data. This bill reclassifies caretaker neglect and creates two new crimes against at-risk persons. To form an estimate on the prevalence of these crimes, the fiscal note analyzed the existing offense of caretaker neglect and used false imprisonment as a comparable crime for abandoning or confining an at-risk person.

Caretaker neglect. In the last three fiscal years, 31 persons have been convicted and sentenced for this offense. Of the persons convicted, 16 were male and 15 were female. Demographically, 22 were White, 3 were African American, 4 were Hispanic, 1 was Asian, and 1 was classified as "Other". Of those convicted, 8 were sentenced to county jail.

False imprisonment. Under current law, the classification of false imprisonment ranges from a class 2 misdemeanor up to a class 5 felony, depending on the circumstances of the offense. In the last three fiscal years, 242 persons have been convicted and sentenced for this offense, including 28 persons sentenced for a felony offense and 214 persons sentenced for a misdemeanor. Of the persons convicted, 225 were male and 17 were female. Demographically, 212 were White, 9 were African American, 15 were Hispanic, 3 was American Indian, and 3 were classified as "Other". Of the 28 felonies, 17 were sentenced to the Department of Corrections (DOC). Of the 214 sentenced for a misdemeanor, 111 were sentenced to county jail.

Assumptions. This analysis assumes that there will be approximately 11 criminal case filings per year for the offenses under the bill. Of those cases, 10 cases will involve caretaker neglect, which is now a class 6 felony, and 1 case will involve the new crimes against at-risk persons. In addition, the fiscal note assumes that 1 offender who is convicted and sentenced to DOC instead of county jail due to reclassification of caretaker neglect and 1 offender every five years who is sentenced to the DOC for the new crimes of abandoning or confining an at-risk person. The average DOC length of stay for a class 6 felony is 7.4 months with an average parole length of stay of 9.6 months once he or she is released from prison. A class 1 misdemeanor has a sentencing range of 6 months to 18 months in county jail.

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

State Revenue

Starting in FY 2019-20, state revenue from criminal fines and court fees will increase by a minimal amount credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 6 felony ranges from \$1,000 to \$100,000. Currently, a class 1 misdemeanor has a fine range of \$500 to \$5,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, 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, however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Transfers

This bill requires a one-time transfer of \$219,519 from the General Fund to the Capital Construction Fund in FY 2019-20. These funds must then be appropriated to the Corrections Expansion Reserve Fund. This amount is based on the costs required to cover future DOC capital construction for 1.2 additional bed spaces (\$178,471 per bed) and may be used by the DOC for prison construction, expansion, or renovation projects that are approved by the General Assembly. DOC capital construction costs from the projected increase in prison population under this bill are discussed in the State Expenditure section.

State Expenditures

Beginning in FY 2019-20, this bill increases costs and workload in the Judicial Department. This bill also increases the five-year expenditures to the DOC by \$358,226. These impacts are shown in Table 2 and discussed below.

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department due to longer trials from the more serious offense and to process additional criminal case filings. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Counsel. To the extent that offenders are sentenced to DOC instead of probation, costs and workload in the Division of Probation will decrease. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

Department of Corrections - Five-year fiscal impact. Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating, capital construction, and parole costs for the DOC by a total of \$358,226 over the five-year period beginning in FY2019-20. This five-year impact includes the potential expenditure on DOC capital construction resulting from the transfer discussed above. The fiscal note assumes no prison impact will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Once an offender is released from prison, he or she is assigned to parole; however, no impact is expected until the first year's cohort of offenders is released to parole. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2
 Prison and Parole Costs Under SB19-172**

Fiscal Year	Prison Bed Impact			Parole Impact		Total Cost
	Number	Operating Cost	Construction Cost*	Number	Operating Cost	
FY 2019-20	1.2	-	\$219,519	-	-	\$219,519
FY 2020-21	1.2	\$48,898	-	0.8	\$3,542	\$52,440
FY 2021-22	0.6	\$24,449	-	1.2	\$5,574	\$30,023
FY 2022-23	0.6	\$24,449	-	0.8	\$3,673	\$28,122
FY 2023-24	0.6	\$24,449	-	0.8	\$3,673	\$28,122
Total Cost		\$122,245	\$219,519		\$16,462	\$358,226

*Capital construction cost is based on the highest bed impact in the five-year period.

Local Government Impact

Beginning in FY 2019-20, this bill is expected to increase local government costs and workload 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. By reclassifying caretaker neglect and creating new crimes against at-risk persons, the bill will increase costs and workload for district attorneys to prosecute these case. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. By reclassifying caretaker neglect, individuals may be sentenced to the DOC instead of county jails. To the extent that this occurs, costs to county jails will decrease. However, because class 6 felonies may still be sentenced to county jails and 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. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

Denver County Court. The bill decreases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, since felony cases are tried in state district court instead of county court. Probation services in the Denver County Courts will also experience an decrease in revenue, costs, and workload revenue to no longer supervise persons convicted under the bill for a felony offense within Denver County.

County departments of human services. To the extent that the bill results in more investigations by county adult protective services, costs and workload to that county will increase. The fiscal note assumes that any increase in costs and workload will be minimal.

Effective Date

The bill takes effect July 1, 2019 and applies to any offense committed on or after this date.

State Appropriations

For FY 2019-20, this bill requires an appropriation of \$219,519 from the Capital Construction Fund to the Corrections Expansion Reserve Fund for DOC capital construction costs. Additionally, this bill requires a General Fund appropriation of \$138,707 for the five-year DOC operating impacts identified in Table 2. The total DOC five-year appropriation required by this bill is \$358,226.

State and Local Government Contacts

Corrections
District Attorneys
Counties
Human Services

Judicial
Health Care Policy and Financing
Sheriffs
Information Technology