



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0328 **Date:** April 05, 2021
Prime Sponsors: Sen. Danielson; Pettersen **Bill Status:** Senate HHS
Fiscal Analyst: Will Clark | 303-866-4720
Will.Clark@state.co.us

Bill Topic: **STRICTER TRANSPARENCY AND ENFORCEMENT IN CHILD CARE**

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 makes changes to reporting requirements for the Department of Human Services, and to legal penalties for family child care facility license violations. The bill may increase state revenue and state and local workload on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$158,397 to the Department of Human Services.

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

Table 1
State Fiscal Impacts Under SB 21-201

	Budget Year FY 2021-22	Out Year FY 2022-23
Revenue	-	-
Expenditures		
Federal Funds	\$158,397	\$34,375
Centrally Appropriated	\$7,196	-
Total Expenditures	\$165,593	\$34,375
Total FTE	0.5 FTE	-
Transfers	-	-
TABOR Refund	-	-

Summary of Legislation

The bill makes several changes to requirements and penalties for child care facilities that are required to be licensed or that are exempt from licensure by the Department of Human Services (DHS) and county departments of human or social services, as outlined below.

Public information. The bill requires DHS to publicly post:

- the number, location and status of complaints filed against child care facilities that are claiming an exemption from licensing;
- the number, location and current status of cease-and-desist orders that have been lodged against licensed child care facilities; and
- the names of child care providers against whom it has filed a motion for permanent injunction and the current status of the case.

Information about these complaints, orders and injunctions must be accessible and prominent on the department's child care provider website on or before July 1, 2021, and ongoing thereafter. DHS must likewise post all complaints that it receives against family child care homes, regardless of their licensure status.

Injunctive relief. The bill allows DHS and county departments of human or social services to apply for an injunction if a child care facility is operating without a license, in violation of license requirements or is exempt from licensure but has received one or more cease-and-desist orders. If a provider violates an injunction issued by the courts, the bill allows them to be tried and punished for contempt of court.

Criminal offenses. The bill makes it a petty offense for operators of a child care facility to not address a violation resulting in a cease-and-desist order within the allotted period given by DHS or county departments. This offense may result in a fine of up to \$500 or a sentence of up to 10 days in jail, or both. It also reclassifies existing misdemeanor offenses for violating family child care license provisions or making a false statement or report to the department as a petty offense. These offenses are subject to the penalties listed above, rather than a fine only of between \$300 and \$500 as under current law.

Civil penalties. The bill revises and increases penalties and fines for child care facility operators to \$250 a day for first offense, \$500 a day for second offense, and \$1,000 a day for subsequent offenses, up from \$150 a day under current law. The maximum combined penalty remains \$10,000 as under current law.

CCCAP eligibility. The bill clarifies that family child care home providers are not eligible for issuance or renewal of Colorado Child Care Assistance Program contracts if they have demonstrated a pattern of petty offense convictions within the past ten years.

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. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates a new petty offense for violating a cease-and-desist order that is not addressed in the time allotted. The bill also reclassifies the existing offenses of violating family child care license provisions, or intentionally making a false statement or report in a related investigation or inspection, from a misdemeanor to a petty offense, and makes changes to related penalties. From 2018 to 2020, zero offenders have been sentenced and convicted for these existing offenses. Though the bill adds a new offense related to child care licensing violations, the fiscal note assumes that most child care providers will follow the law, and there will continue to be minimal or no additional criminal case filings or convictions as a result of this bill.

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

State Revenue

The bill potentially increases revenue from both civil penalties and criminal fines for violations of family child care license provisions. Civil penalties are deposited to the Child Care Cash Fund, and criminal fines to the Fines Collection Cash Fund. This revenue is subject to the state's TABOR limit. Based on the Comparable Crime Analysis above, it is assumed that there will be a minimal impact on criminal fine revenue. Raising daily civil penalties will also increase revenue, but since the overall cap remains same, any increase is assumed to be minimal.

State Expenditures

This bill increases expenditures for the DHS by \$165,593 and 0.5 FTE in FY 2021-22 and \$34,375 in FY 2022-23 and future years. It will also increase workload in the Judicial Department on an ongoing basis. These impacts are summarized in Table 2 and described in more detail below.

**Table 2
 Expenditures Under SB 21-201**

	FY 2021-22	FY 2022-23
Department of Human Services		
Personal Services	\$24,272	-
Operating Expenses	\$675	-
Capital Outlay Costs	\$6,200	-
Computer programming	\$127,250	-
Ongoing system maintenance	-	\$34,375
Centrally Appropriated Costs ¹	\$7,196	-
FTE – Personal Services	0.5 FTE	0.0 FTE
Total	\$165,593	\$34,375
Total FTE	0.5 FTE	0.0 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Human Services. Expenditures in the DHS will increase in FY 2021-22 and ongoing, paid from the federal Child Care and Development fund grant, as described below.

Computer programming. In FY 2021-22, the department will require \$165,593 to make changes to its public facing child care provider website, Colorado Shines. This cost includes 1,018 hours of computer programming work, at a rate of \$125 per hour, for a new complaint/cease-and-desist field in the existing licensing database, a unique identifier that will be applied to existing complaint/cease-and-desist records, and a new application programming interface that will connect information from the existing licensing database to a new webpage for the Colorado Shines database.

Compliance during program development. To comply with the requirements of this bill while computer programming changes are being implemented, DHS will require 0.5 FTE in FY 2021-22 to manually post copies of complaint and cease-and-desist information to the Colorado Shines website.

Ongoing system maintenance. In FY 2022-23 and future years, DHS will require \$34,375 for ongoing maintenance of the new system changes, which includes 275 hours of work annually, at a rate of \$125 per hour.

Judicial Department. Workload and costs for the trial courts in the Judicial Department may minimally increase if the criminal offense that is expanded by this bill leads to additional criminal or civil filings. The Judicial Department will also be required to make minor updates to its case management system. These changes can be absorbed within existing appropriations.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Local Government

Starting in FY 2021-22, if county departments of human or social services file injunctions as allowed by the bill, local legal costs will increase. These costs have not been estimated for this fiscal note, but will vary based on jurisdiction.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2021-22, the bill requires an appropriation of \$158,397 to the Department of Human Services from federal funds.

State and Local Government Contacts

Counties
Information Technology
Public Safety

District Attorneys
Judicial

Human Services
Law