



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 22, 2021)

Drafting Number:	LLS 21-1027	Date:	June 3, 2021
Prime Sponsors:	Sen. Fields; Cooke Rep. Weissman; Soper	Bill Status:	House Third Reading
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Bill Topic: **BIAS-MOTIVATED CRIMES**

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 clarifies that specified bias-motivated crimes need only be partially motivated by bias to be categorized as a bias-motivated crime. It also creates the Preventing Targeted Violence Training Program. Beginning in FY 2021-22, the bill will increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2021-22, this bill requires an appropriation of \$589,882 to the Department of Public Safety.

Fiscal Note Status: This fiscal note reflects the reengrossed bill, as amended by the House Judiciary committee.

**Table 1
State Fiscal Impacts Under SB 21-280**

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	General Fund	\$589,882	\$591,167
	Centrally Appropriated	\$16,450	\$18,127
	Total Expenditures	\$606,332	\$609,294
	Total FTE	0.9 FTE	1.0 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill clarifies that for harassment that is bias-motivated or a bias-motivated crime, the bias motivation only needs to be part of the defendant's motivation in committing the crime. The bill also makes the crime of harassment when the harassment is bias-motivated a Victim Right Act (VRA) crime, which provides a victim certain statutory rights. In addition, the bill creates the Preventing Targeted Violence Training Program in the Department of Public Safety with the purpose of providing grants for training programs and threat assessments and creates a cash fund for the program. Grant recipients must provide targeted violence training or threat assessments to public entities and community organizations.

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.

Harassment. This bill clarifies that the existing offenses of harassment with bias-motivation. From 2018 to 2020, 15,602 offenders were convicted and sentenced of any form of harassment. Of the persons convicted, 11,734 were male and 3,857 female, and 13,039 were white, 1,159 black, 895 Hispanic, 109 Asian, 186 indigenous, and 214 other. Of the total number of harassment convictions, about 10 to 15 per year were convicted and sentenced for bias-motivated harassment. The fiscal note assumes that most bias-related crimes are already being prosecuted under that sentencing category, and that the number of additional harassment cases that will be sentenced under the bias-motivated harassment provision will be minimal.

Bias Motivated Crime. This bill clarifies that the existing offense of a bias-motivated crime includes intent that is partially motivated by bias. From 2018 to 2020, 73 offenders have been sentenced and convicted for this existing offense. Of the persons convicted, 65 were male and 8 female, and 67 were white, 3 black, 1 Asian and 2 other. Of these, one offender was sentenced to the Department of Corrections.

Assumption. As this bill clarifies that partial motivation classifies as a bias-motivated crime, the fiscal note assumes that most crimes are already being prosecuted and that there will be minimal or no additional criminal case filings or convictions under the bill.

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

State Revenue

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. This bill may increase state revenue to the extent the grant program receives any gifts, grants, and donations. At the time of this writing, no source for gifts, grants, or donations has been identified. Gifts, grants, and donations are not subject to TABOR provisions.

State Expenditures

Beginning in FY 2021-22, this bill will increase expenditures in the Department of Public Safety, and increase workload in the judicial agencies. These costs are displayed in Table 2 and described below.

**Table 2
Expenditures Under SB 21-280**

	FY 2021-22	FY 2022-23
Department of Public Safety		
Personal Services	\$82,332	\$89,817
Operating Expenses	\$1,350	\$1,350
Capital Outlay Costs	\$6,200	-
Grant Awards	\$500,000	\$500,000
Centrally Appropriated Costs ¹	\$16,450	\$18,127
FTE – Personal Services	0.9 FTE	1.0 FTE
Total Cost	\$606,332	\$609,294
Total FTE	0.9 FTE	1.0 FTE

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

Department of Public Safety. The bill creates the Preventing Targeted Violence Training Program in the Division of Homeland Security and Emergency Management to provide grants for training programs and a program fund. This fiscal note estimates that around \$500,000 is required in grant awards in order to implement the training program. The division is required to administer the program, process grant applications and awards, which will require one grant specialist FTE.

Judicial Agencies. The bill may increase the number of harassment misdemeanors that would be prosecuted as a first-class misdemeanor instead of a third-class misdemeanor by expanding when harassment is classified as bias-motivated. In addition, the bill adds a new offense to the VRA, which means the Division of Probation will have to issue additional notifications to a larger population of victims. Any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, are assumed to be minimal and no change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$16,450 in FY 2021-22 and \$18,127 in FY 2022-23.

TABOR refunds. The bill minimally 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.

Federal ARPA funds. This bill minimally increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

Similar to the state, it is expected that any workload or cost increase for district attorneys will be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because 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. For the current fiscal year, the state reimburses county jails at a daily rate of \$57.97.

Denver County Court. The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

State Appropriations

For FY 2021-22, this bill requires an appropriation of \$589,882 to the Department of Public Safety.

Effective Date

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

State and Local Government Contacts

Counties	District Attorneys	Judicial	Public Safety
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