



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0448	Date:	January 17, 2024
Prime Sponsors:	Rep. Bird; Frizell Sen. Kirkmeyer; Fields	Bill Status:	House Judiciary
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Bill Topic: PROTECTION OF VICTIMS OF SEXUAL OFFENSES

Summary of Fiscal Impact:	<input type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill changes the relevancy of evidence of a victim's and witness's prior sexual conduct and when non-admissible evidence of sexual conduct can be admitted during a trial. Starting in FY 2024-25, the bill impacts state and local workload.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill modifies relevancy and admissibility standards for certain evidence of a victim's or witness's prior or subsequent sexual conduct with a defendant during criminal proceedings, as described below.

Relevant and admissible evidence during trial. The bill makes evidence of a victim's or witness' prior sexual conduct with a defendant irrelevant during a trial. In addition, the bill makes inadmissible as evidence:

- a victim's manner of dress or hairstyle as evidence of the victim's consent to sex acts; or
- a victim's behavioral or mental health offered by a defendant who is a psychotherapist accused of unlawful sexual behavior unless certain criteria are met.

Exemption to inadmissible evidence. During a trial for certain sex offenses—including the class 4 felony of internet luring of a child; sexual assault offenses; human trafficking for sexual servitude; incest; sexual exploitation of a child; and child prostitution—inadmissible evidence about a victim's and witness's sexual conduct may be admitted under certain circumstances. The bill requires that motions to admit such evidence articulate facts that would support a judicial finding that the evidence overcomes the presumption of irrelevance and outweighs the presumptive prejudice, confusion of issues, and the privacy of the victim or witness. When evidence concerns a history of false reporting of sexual assaults, motions must also—by clear

and convincing evidence—demonstrate that the victim or witness made multiple reports of sexual assault that were knowingly made to law enforcement or the Department of Human Services personnel; intentionally made in bad faith; and proven to have been false allegations.

State Expenditures

Starting in FY 2024-25, the bill will impact workload to the trial courts and independent judicial agencies representing indigent offenders in two ways. If the bill lengthens hearings by requiring the court to make certain findings, the bill will increase court and agency workload. Conversely, if less evidence is admitted into trials, hearing time and workload will decrease for the courts and independent judicial agencies. Overall, arguments addressed in the bill are already subjects of discussion during hearings in similar cases; therefore, the fiscal note assumes that any changes in workload will be minimal and no change in appropriations for any agency is required.

Local Government

Similar to the state, district attorney offices are expected to have minimal workload impacts under the bill.

Effective Date

The bill takes effect July 1, 2024, and applies to proceedings occurring on or after that date.

State and Local Government Contacts

District Attorneys

Judicial

Regulatory Agencies

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).