



**Colorado  
Legislative  
Council  
Staff**

**HB17-1188**

**FISCAL NOTE**

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 17-0895

**Date:** February 23, 2017

**Prime Sponsor(s):** Rep. Foote  
Sen. Coram; Moreno

**Bill Status:** House Judiciary

**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** HARASSMENT SEXUAL ORIENTATION OR DISABILITY

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b>		
Cash Funds	Minimal increase.	
<b>State Expenditures</b>	Minimal workload increase.	
<b>TABOR Impact</b>	Minimal increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal increase in state revenue and workload.		

**Summary of Legislation**

Under current law, harassment is a class 3 misdemeanor unless the offender intends to intimidate or harass someone based on his or her actual or perceived race, color, religion, ancestry, or national origin, in which case it is a class 1 misdemeanor. Under the bill, harassment based on a person's physical or mental disability or sexual orientation is also a class 1 misdemeanor.

**Background and Comparable Crime**

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. The bill changes the factual basis for class 1 misdemeanor harassment. In the past three years, there have been 14,391 convictions for harassment. Of these, 12,054 were Caucasian, 1,022 were African American, 911 were Hispanic, 167 were Native American, 130 were classified as other, 101 were Asian, and 6 were unknown; 11,127 were male, 3,254 were female, and for 10 the sex of the offender is unknown. Out of the 14,391 convictions, 74 were class 1 misdemeanor convictions for bias-motivated harassment. The penalty for a class 3 misdemeanor is a \$50 to \$750 fine, up to 6 months in jail, or both. The penalty for a class 1 misdemeanor is a \$500 to \$5,000 fine, 6 to 18 months in jail, or both. The fiscal note assumes that most cases of harassment based on a person's physical or mental disability or sexual orientation are already being charged under current law as class 3 misdemeanors.

## State Revenue

Beginning in FY 2017-18, this bill may increase state revenue by a minimal amount.

**Criminal fines.** Because of the higher penalty for class 1 misdemeanors, this bill may increase state revenue by a minimal amount, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000. 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 criminal fines imposed in 2016, the fiscal note assumes that any revenue generated is likely to be minimal.

**Court and administrative fees.** This bill may also increase state fee revenue by a minimal amount, including \$50 per offender per month for probation supervision. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as victim compensation, late fees, and other administrative fees. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information.

## TABOR Impact

This bill may increase state cash fund revenue from fees and fines, which may increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill may increase the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget may decrease by an identical amount.

## State Expenditures

Beginning in FY 2017-18, this bill may increase workload for the Division of Probation Services if more offenders are sentenced to probation. The fiscal note assumes any such increase is minimal and will not require any change in appropriations for the Judicial Department.

## Local Government Impact

This bill will affect local governments in several ways, as discussed below.

**Criminal fine and fee revenue.** Because of the higher penalty for class 1 misdemeanors, this bill may increase fine revenue by a minimal amount for the City and County of Denver. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000. Court and administrative fee revenue may also increase. For all jurisdictions, revenue is anticipated to increase by a minimal amount as a result of any court and administrative fees shared with the state.

**County jail expenditures.** To the extent that this bill increases the jail sentences for offenders convicted of bias-motivated harassment, costs will increase. Under current law, a court may sentence an offender to jail for a class 1 misdemeanor for 6 to 18 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will be minimal.

**Effective Date**

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

District Attorneys

Judicial