



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-1019
Prime Sponsors: Sen. Coram; Crowder

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Bill Status: Senate Judiciary
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Bill Topic: HUMAN REMAINS DISPOSITION SALE BUSINESSES

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

This bill makes it unlawful to own an interest in a funeral establishment or a crematory and also own an interest in a nontransplant tissue bank. This bill also creates the misdemeanor crime of human remains profiteering. This bill may increase state and local government revenue, expenditures, and workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

**Table 1
State Fiscal Impacts Under SB 18-234**

		FY 2018-19	FY 2019-20
Revenue	General Fund and Cash Funds	less than \$5,000	less than \$5,000
Expenditures		-	-
Transfers		-	-
TABOR Refund	General Fund	less than \$5,000	less than \$5,000

Summary of Legislation

This bill makes it unlawful for a person owning an indirect or direct interest in a funeral establishment or in a crematory to own an indirect or direct interest in a nontransplant tissue bank. Indirect interest is ownership of more than 10 percent.

This bill creates the crime of human remains profiteering and makes it a class 1 misdemeanor for any person, entity, or employee to transfer, arrange for transfer, sell, store, or lease human remains for valuable consideration. Valuable consideration is defined as reimbursement for reasonable direct and indirect costs associated with the removal, storage, or transporting of human remains.

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.

Mortuary science code. By making it unlawful for a person to have an indirect or direct interest in a funeral establishment or a crematory and a nontransplant tissue bank, this bill changes the element of an existing crime and creates a new factual basis for the offense. Under current law, a violation of the mortuary science code can be charged as an unclassified misdemeanor or may be enforced by civil action initiated by the Attorney General or a district attorney. Since 2015, there have been zero convictions for violating the mortuary science code.

Human remains profiteering. This bill creates the new crime of human remains profiteering. Since this is a new crime, sentencing data does not exist. To form an estimate on the prevalence of this crime, data on the abuse of a corpse, which includes any person, association, corporation, or officer knowingly transporting or accepting a body for transportation, interment, or other disposition without a legally issued permit, which is a class 2 misdemeanor, was analyzed. Since 2015, there have been zero convictions of abuse of a corpse.

Background and Assumptions

A mortuary science practitioner is a person who, for profit, prepares human remains for final disposition, embalms or cremates human remains, or arranges, directs, or supervises funerals, memorial services, or grave side services. This analysis assumes a high level of compliance with this bill's requirements and that the number of misdemeanor or civil cases resulting from this bill will be minimal.

State Revenue

Beginning in FY 2018-19, this bill may increase state revenue by less than \$5,000 per year from fines and fees to the extent violations occur.

Criminal fines. The bill may increase state revenue by less than \$5,000 per year credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 1 misdemeanor offense 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 fines imposed by the courts, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

Court and administrative fees. The bill may also increase state fee revenue credited to the General Fund and various cash funds. Fees are imposed for a variety of court-related costs, which vary based on the offense, but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Revenue may also be received from fees assessed in civil actions against mortuary science practitioners. Some fee revenue is shared with local governments; refer to the Local Government section for additional information.

TABOR Refund

This bill may increase state General Fund and cash fund revenue subject to TABOR, which may increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20 by less than \$5,000 per year.

For FY 2018-19, the bill may increase the TABOR refund obligation by less than \$5,000 while increasing General Fund and cash fund revenue by at least \$5,000, resulting in a net decrease of at least \$5,000 in the amount available for the General Fund budget. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2018-19, this bill may increase workload in the Judicial Department, Department of Law, and Department of Regulatory Agencies as described below.

Judicial Department. By expanding the scope of what is considered to be unlawful under the mortuary science code and creating a new class 1 misdemeanor crime, this bill may increase trial court workload. To the extent that offenders are sentenced to probation for misdemeanor human remains profiteering, probation workload will also increase. A high level of compliance is anticipated; therefore, any impact is considered minimal and can be accomplished within existing appropriations.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel may increase under the bill to represent any indigent offenders. It is assumed any impact will be minimal and can be accomplished within existing appropriations.

Department of Regulatory Agencies. This bill may increase workload in the Department of Regulatory Agencies (DORA) to provide education and outreach to mortuary science practitioners. This work can be accomplished within existing appropriations.

Additionally, under current law, the Department of Law provides representation to the DORA on legal matters concerning mortuary science practitioners. By expanding the mortuary science code, this bill may increase Department of Law workload to represent DORA or pursue civil actions. Any expenses incurred will be paid, using reappropriated funds from DORA.

Local Government Impact

This bill may increase local government revenue, costs, and workload as described below. Any impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction, but is expected to be minimal.

District attorneys. The bill may increase workload and costs for district attorneys to prosecute any new offenses under the bill. This bill may also increase workload to initiate additional civil actions against mortuary science practitioners. Overall, a high level of compliance is expected and this impact will be minimal.

County jails. Under current law, a court may sentence an offender to jail for a class 1 misdemeanor for a period of between 6 and 18 months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

Denver County Court. The bill may increase criminal fine and fee revenue and workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try any misdemeanor cases of human remains profiteering and may try additional mortuary science code civil cases. Probation services in the Denver County Courts may also experience a minimal increase in revenue and workload to supervise persons convicted under the bill within Denver County. Overall, any impacts are expected to be minimal.

Cemetery districts. There are 81 county cemetery districts in the state. This bill may increase workload for cemetery districts to update policies and procedures and provide training to employees. This workload is expected to be minimal.

Effective Date

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties	District Attorneys	Judicial
Law	Regulatory Agencies	Special Districts