



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1334

FINAL FISCAL NOTE

Drafting Number: LLS 19-0057
Prime Sponsors: Rep. Saine, Sen. Marble

Date: July 23, 2019
Bill Status: Signed into Law
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Bill Topic: BAN POSTING IMAGES OF A SUICIDE

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund, Local Government (minimal), Statutory Public Entity

This bill makes the posting or electronic distribution of an image of a minor attempting to commit or dying by suicide a crime. This bill increases state and local government revenue and expenditures by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill makes it a crime to post or electronically distribute an image of a minor attempting to commit or dying by suicide. Posting such an image is a civil infraction punishable by a fine of \$100 per violation; however, the originator of the posting can be charged with a class 3 misdemeanor. It is not a crime if the posting is a fictional work or a documentary, related to a matter of public interest, or related to law enforcement, legal proceedings, or medical practices.

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. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

Prior conviction data. This bill creates the new offense of posting an image of a minor attempting or dying suicide. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of posting an image for harassment as a comparable crime which is a class 1 misdemeanor. From 2016 to 2018, 57 offenders have been convicted and sentenced for this existing offense and 23 of these offenders were sentenced to county jail. Of the persons convicted, 52 were male, 5 were female. Demographically, 46 were White, 7 were African American, 3 were Hispanic, and 1 offender was classified as "Other."

Assumption. A high level of compliance with this law is assumed with less than 10 court filings and less than 5 convictions per year; therefore, the criminal justice system impacts identified in this analysis are assumed to be minimal. It is unknown how many of these will be civil infractions or misdemeanors.

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

State Revenue

By creating a new misdemeanor, this bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for this civil offense is \$100 per violation and \$50 to \$750 for a class 3 misdemeanor. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR; however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Expenditures

Beginning in FY 2019-20, this bill increases costs and workload in the Judicial Department and agencies that provide representation to indigent persons by a minimal amount. Costs and workload in the Department of Human Services may also increase. These impacts are discussed below.

Judicial Department. This bill will minimally increase costs and workload for the trial courts in the Judicial Department to process additional civil and criminal case filings. To the extent that class 3 misdemeanor offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council and for the Office of the Child's Representative for representation in juvenile delinquency proceedings. Overall, it is assumed that this workload can be accomplished within existing appropriations and that any change in funding needed will be addressed through the annual budget process.

Department of Human Services. To the extent that this bill increases the number of juveniles adjudicated of posting or distributing an image of a minor attempting or committing suicide and sentenced to the Division of Youth Services, costs will increase. This impact is assumed to be minimal. Any increase in funding needed will be addressed through the annual budget process.

Local Government

Beginning in FY 2019-20, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction, but is assumed to be minimal.

District attorneys. The bill increases costs and workload for district attorneys by a minimal amount to prosecute new misdemeanor offenses. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. This bill may increase county jail costs from county jail sentences for the misdemeanor crime of posting an image of minor suicide. 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. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

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 civil and misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload to supervise persons convicted under the bill within Denver County.

Effective Date

This bill was signed into law by the Governor on May 31, 2019, and takes effect August 2, 2019, assuming no referendum petition is filed. It applies to offenses committed on or after the effective date.

State and Local Government Contacts

Counties District Attorneys Human Services Judicial