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Revised Fiscal Note

(replaces fiscal note dated February 16, 2021)

Drafting Number: LLS 21-0121 Date: April 26, 2021
Prime Sponsors: Rep. Benavidez; Amabile Bill Status: House Appropriations
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Bill Topic: UPDATE PROCESSES JUVENILE SEX OFFENDER REGISTRY

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

This bill makes several changes to the requirements for juveniles to register as a sex offender. Starting in FY 2021-22, this bill will increase state expenditures and may minimally increase state revenue on an ongoing basis.

Appropriation Summary: For FY 2021-22, this bill requires an appropriation of \$7,200 to the Department of Public Safety.

Fiscal Note Status: This revised fiscal note reflects the introduced bill. It has been updated to reflect new workload assumptions regarding the Department of Public Safety.

Table 1
State Fiscal Impacts Under HB 21-1064

Table with 4 columns: Category, Budget Year FY 2021-22, Out Year FY 2022-23. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

Summary of Legislation

This bill makes a number of changes to the requirements to register on Colorado's Sex Offender Registry (the registry) as a juvenile. Specifically, it changes when a juvenile can be removed from the registry, when they can petition a court to be removed, and when information from the registry about a juvenile can be released. These changes are described in more detail below.

Duty to register—automatic termination. This bill updates when a juvenile can be removed from the registry. Under the bill, the duty to register automatically terminates when the juvenile turns 25, or is seven years removed from having to register, and has not committed a new sex offense as an adult. If the individual attempts to or inquires about their duty to register, law enforcement must inform the individual that their duty has been terminated and must remove the person from their registry and notify the Colorado Bureau Investigation (CBI) to remove the person from Colorado's registry. Law enforcement or CBI may establish a fee to determine whether a person's duty to register has been terminated. The fee must reflect the direct costs for searching the registry and cannot exceed \$15. The fee may be waived for persons who are indigent. A person may also petition the court to be removed from the registry if they qualify for automatic removal but were not removed.

Duty to register—crime committed in different state. Under current law, if a juvenile commits a crime in a different state or jurisdiction and that crime, if committed in Colorado, would require the juvenile to register as a sex offender, the juvenile must register as an offender while they are a resident in the state. This bill repeals this requirement if the other state's court removes the restriction to register, as long as the offender has not been convicted for a sex offense as an adult.

Petitioning the court—registration exemptions. The bill makes several changes to the process for petitioning the court to exempt a juvenile from registration. First, the bill removes the requirement that the court find that registration would be unfairly punitive to approve an exemption. Second, the bill allows individuals who have been previously charged, but who were not adjudicated or received a disposition for a separate unlawful sexual offense, to file a petition to be exempted from registration. In addition, before a court can rule on an exemption, the court must consider a victim statement.

Petitioning the court—removal from registry. This bill changes the requirements for when a juvenile may petition a court for removal from the registry. Juveniles who have been convicted or have pending prosecution for another sexual offense as a juvenile can petition the court for removal. The bill also clarifies that when the court is considering this order, it should be based on specific materials, where available. Finally, the bill allows adults with only a sex offense conviction as a juvenile to petition for removal.

Juvenile's requirement to register—after sentencing. After a juvenile's sentencing, the court must notify relevant parties within 14 days, instead of the current 63 days, that the court will consider an order to discontinue the registration requirement. The bill allows a district attorney to request a hearing to determine if registration should continue within 63 days, after the court determines the juvenile is eligible to petition. If a hearing is requested, the court must issue an order for a hearing the next court day. During the hearing, the court will determine whether the juvenile is eligible to be removed from the registry. If the court orders that the registration be discontinued, the court, rather than the Department of Human Services, must send a copy of the order to local law enforcement, the juvenile parole board, and CBI.

Information released from the registry. The bill changes what information on juveniles can be released from the registry. First, the bill restricts who can request information to law enforcement, probation officials, parole officials, governmental child welfare agencies, the Division of Youth Services, and victims. Anyone else requesting the information must describe why they need the information and must affirm that they will not use the information to post on a website, to obtain a financial benefit, or to harass, intimidate, coerce, or cause emotional distress to any person. Upon receiving affirmation from the requestor, the CBI can release the full name, aliases, date of birth, current address, and a photograph, if requested, to the requestor. In addition to restrictions on who can request juvenile information, the bill does not allow local law enforcement to release information about juvenile sex offenders and does not allow CBI to post information about juvenile sex offenders on their website.

A person who uses the registry information in an unauthorized way, or lies on their request form commits an unclassified misdemeanor and may be punished by a fine up to \$1,000 for each violation. Starting on July 1, 2022, and every year after, CBI must prepare a report for the General Assembly detailing juvenile sex offender information requests.

Background

Currently, there are around 20,000 offenders on the sex offender registry, about 2,000 of which are registered for crimes committed as a juvenile. Inquiries about the sex offender registry can be fielded by the CBI, local law enforcement, victim's rights advocates, and district attorney's offices.

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 unauthorized use of juvenile information from the registry, an unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of improperly releasing information contained in child abuse or neglect records, a class 1 misdemeanor, as a comparable crime. From FY 2017-18 to FY 2019-20, 1 person has been convicted and sentenced for this existing offense. The person was female and white.

Assumptions. Due to the low number of sentences identified above, this analysis assumes that there will be minimal criminal case filings per year for the offense under the bill. Therefore, the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

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State Revenue

Starting in FY 2021-22, state revenue to the General Fund may increase by a minimal amount if offenders inquire directly to the CBI to check their registration requirement, as established by the bill. The fiscal note assumes that the majority of offenders will inquire with local law enforcement rather than the CBI; therefore, any increase in revenue will be collected by the state is assumed to be minimal.

State Expenditures

This bill will increase state General Fund expenditures in the DPS by \$7,200 in FY 2021-22 only. In addition, the bill will impact workload in the DPS, the Judicial Department, and the Department of Human Services.

Public Safety. The DPS will have one-time \$7,200 cost to update and modify the Colorado Crime Information Center System. Work will be performed by the system vendor. In addition, workload to the DPS will increase to support to local law enforcement agencies, offenders, and victims about changes to the registration requirements, and to train local law enforcement offices on the new requirements. Workload will also decrease as fewer individuals will be required to register as a sex offender. The fiscal note assumes that no change in appropriations is required for the change in workload.

Judicial Department. Starting in FY 2021-22, the bill will impact workload in the Judicial Department in several ways. First, workload in the trial courts will increase to hear petitions to remove individuals from the registry who were not automatically removed; to issue orders and review cases to remove adults with only sexual offense convictions as a juvenile who petition the court; to hold additional hearings due to an objection from a district attorney; and to send orders of removal from the registry to law enforcement agencies. Second, workload in the trial courts will decrease to no longer hear petitions from individuals who will become eligible for automatic removal from the registry. Finally, workload will increase for the department's IT division to update its case management system. The fiscal note assumes that all work can be accomplished within existing appropriations.

Department of Human Services. Starting in FY 2021-22, the bill affects workload within the Department of Human Services in several ways. First, the bill increases workload for the department to update a notice to register with the new requirements of the bill. Second, the bill will decrease workload to no longer send notices to law enforcement agencies of an order to remove a juvenile from the registry. All workload is assumed to be minimal and no change in appropriation is required.

TABOR refunds. The bill 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.

Local Government

Starting in FY 2021-22, the bill will increase local law enforcement revenue and expenditures as well as district attorney workload on an ongoing basis as described below.

Local law enforcement. The bill increases revenue to local law enforcement agencies and impacts their workload. First, the bill increases revenue from collecting a fee to determine whether a person's duty to register has been terminated. Assuming a \$15 fee, the maximum amount allowed under the bill, the bill will generate up to \$30,000 for the various law enforcement agencies. Second, the bill increases workload for law enforcement to determine if an offender's duty to register has terminated. Finally, the bill eliminates circumstances when juveniles adjudicated of certain crimes can be listed on a local government's sex offender registry and prohibits this information from being released except to certain parties, which is anticipated to reduce workload for local law enforcement agencies.

District attorneys. The bill increases workload and costs for district attorneys to attend additional hearings and to provide additional victim notification. Overall, impacts are assumed to be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

The bill takes effect September 1, 2021.

Departmental Difference

The Department of Public Safety estimates the bill will increase expenditures by \$82,401 and 0.8 FTE in FY 2021-22 and by \$89,078 and 1.0 FTE in FY 2022-23. The department estimates that 1.0 FTE is required to support local law enforcement in determining when a juvenile should be taken off the registry; answer questions from victims and offenders on the new registration requirements; and train local law enforcement on the change in law. The fiscal note assumes that local law enforcement can determine if a juvenile is eligible to be taken off the registry in most cases and that victims and offenders have multiple resources to answer their questions—including law enforcement officers, victim advocates, and district attorney's offices. In addition, the fiscal note assumes the bill will decrease DPS workload as less individuals will be required to register. As a result, the fiscal note assumes that DPS will have a minimal workload impact on net, and does not require additional staff.

State Appropriations

For FY 2021-22, the bill requires a General Fund appropriation of \$7,200 to the Department of Public Safety.

State and Local Government Contacts

District Attorneys	Human Services	Information Technology	Judicial
Municipalities	Public Safety	Sheriffs	