

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING ESTABLISHING A CIVIL CAUSE OF ACTION FOR SEXUAL MISCONDUCT AGAINST A MINOR, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Prime Sponsors: Sens. Danielson and Fields	JBC Analyst: Tom Dermody
Reps. Michaelson Jenet and Soper	Phone: 303-866-4963
	Date Prepared: June 4, 2021

Appropriation Items of Note

Appropriation Already Added to Bill, Amendment in Packet

General Fund Impact

Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Revised Fiscal Note (attached) reflects the fiscal impact of the bill as of 06/03/21.

XXX	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
L.068	Bill Sponsor amendment - does not change fiscal impact
L.069	Bill Sponsor amendment - does not change fiscal impact

Current Appropriations Clause in Bill

The bill includes an appropriation clause that provides a total of \$1,198,355 General Fund to the Department of Personnel for FY 2021-22. This provision also states that the appropriation is based on the assumption that the Department will require an additional 0.9 FTE. Furthermore, the appropriation clause reappropriates \$1,137,838 to the Department of Law for the provision of legal services to the Department of Personnel and states that the provision is based on the assumption that the Department of Law will require an additional 5.9 FTE.

Description of Amendments in This Packet

L.068 Bill Sponsor amendment **L.068** (attached) makes an organization liable only when they knew or should have know that the actor who committed the sexual misconduct posed a risk of sexual misconduct.

L.069 Bill Sponsor amendment **L.069** (attached) amends the damage provisions adopted by the House Judiciary Committee Report (06/03/21) to define when the court may award damages to a private plaintiff in excess of the maximum allowable award (\$450,000). With **L.069**, the court may exceed the cap when it finds by clear and convincing evidence that the defendant managing organization:

1. knew or should have known, based on information that, at the time of the incident, was in the defendant’s possession or was publicly or readily available through commonly used practices, that the actor who committed sexual misconduct against the plaintiff had previously committed sexual misconduct against a minor; and
2. failed to take reasonable remedial action against that person.

The amendment adds a upward limit of \$900,000 that may be awarded to a plaintiff. The Colorado Government Immunity Act award limits still apply to a public entity.

Amendments **L.068** and L.069 are independent of one another. The Committee **may adopt either, both, or neither.**

Legislative Council Staff and JBC Staff agree that amendments **L.068** and **L.069** would not change the fiscal impact of the bill.

Points to Consider

General Fund Impact

The Joint Budget Committee has proposed a budget package for FY 2021-22 based on the March 2021 Legislative Council Staff revenue forecast. The budget package includes a set aside of \$48.0 million General Fund for bills that require General Fund appropriations for FY 2021-22. This bill requires a General Fund appropriation of \$1,198,355 for FY 2021-22, reducing the \$48.0 million set aside by the same amount.