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**Fiscal Note**

**Drafting Number:** LLS 21-0739  
**Prime Sponsors:** Sen. Buckner  
Rep. Herod

**Date:** March 23, 2021  
**Bill Status:** Senate Education  
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**Bill Topic:** **SCHOOL DISCIPLINE**

**Summary of Fiscal Impact:**

- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- School District

The bill makes changes to state law related to school discipline, including disproportionate discipline, data reporting, district policies, and law enforcement on school grounds. The bill reduces state revenue, both increases and decreases state expenditures, and increases school district costs beginning in FY 2021-22.

**Appropriation Summary:**

In FY 2021-22, the bill requires an appropriation increase of \$183,134 to the Colorado Department of Education and an appropriation reduction of \$604,867 to the Judicial Department.

**Fiscal Note Status:**

This fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under SB 21-182**

		<b>Budget Year FY 2021-22</b>	<b>Out Year FY 2022-23</b>
<b>Revenue</b>	Cash Funds	(\$18,578)	(\$27,496)
	<b>Total Revenue</b>	<b>(\$18,578)</b>	<b>(\$27,496)</b>
<b>Expenditures</b>	General Fund	(\$421,733)	(\$604,867)
	Centrally Appropriated	(\$166,524)	(\$166,524)
	<b>Total Expenditures</b>	<b>(\$588,257)</b>	<b>(\$771,391)</b>
	<b>Total FTE</b>	<b>(8.3 FTE)</b>	<b>(8.4 FTE)</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## **Summary of Legislation**

The bill makes changes to state law related to school discipline, including district policies, data reporting, student supports, and law enforcement on school grounds.

**Disciplinary policies.** The bill encourages districts to provide training to staff on best practices and skills to address disproportionate discipline and create inclusionary approaches to discipline. It also requires that school districts:

- implement a policy to report and address disproportionate disciplinary practices;
- identify an employee to act as a point of contact for discipline training and related efforts;
- annually review data on disciplinary incidents and actions taken in response, disaggregated by race, ethnicity, socioeconomic status, and instructional program; and
- implement and annually review an improvement plan to address disproportionate discipline.

**Conduct and discipline codes.** The bill requires that school district conduct and discipline codes:

- include developmentally appropriate, preventative, and restorative disciplinary methods;
- use suspensions and expulsions as a last option;
- prioritize strategies that provide social and emotional support, mental and behavioral health services, and other services;
- ensure the district annually reviews data to ensure the code is enforced consistently; and
- prohibit a student from being referred to law enforcement for conduct on school grounds, unless there are no other alternatives or officials are obligated to by law.

**Grounds for suspension and expulsion.** A student may not be declared habitually disruptive unless the district has taken steps to address the student's behavior. The bill repeals criteria that a district must consider in suspending a student and modifies alternatives that must be used instead of suspension or expulsion, except when such alternatives are insufficient to keep the school safe.

**Law enforcement on school grounds.** The bill prohibits a school resource officer (SRO) or other law enforcement officer from arresting or issuing a summons or ticket to a student for allegedly committing certain misdemeanor or petty offense violations on school grounds. Law enforcement must instead report such conduct to the school principal. The bill also prohibits a law enforcement officer from using handcuffs on an elementary school student.

**School resource officers.** The bill requires that each district that contracts for an SRO must:

- adopt a policy for selecting the officers, including minimum qualifications;
- jointly create with the law enforcement agency an evaluation process for SROs; and
- enter into a memorandum of understanding with the law enforcement agency that includes strategies to minimize student exposure to the criminal and juvenile justice system.

**Data reporting.** The bill requires that the State Board of Education (SBE) promulgate rules to standardize the reporting method for schools districts and charter schools to collect and report data on suspensions, expulsions, arrests, chronic absenteeism, violence, harassment and bullying to the state and federal education departments. The SBE must annually review the disaggregated data and the actions taken in response to each violation, and post it online.

**Services for at-risk students.** The bill modifies programs for students who are at risk of suspension or expulsion to instead apply to students who are at risk of dropping out due to chronic absenteeism and disciplinary issues. It specifies the supports that districts may provide to those students, including that the district may contract with other government agencies to provide training and support to employees who support those students.

The bill modifies the Expelled and At-risk Students Services Grant Program to align application and review criteria with the new definitions, and requires that 50 percent of grant funding be awarded for applicants who implement age and developmentally appropriate disciplinary methods, including positive behavior intervention and restorative justice models.

**Charter School Institute.** Charter schools authorized by the state charter school institute (CSI) must comply with the bill's requirements for safe school plans, data reporting, school resource officers, and disciplinary policies.

## **Assumptions**

The fiscal note estimates that the bill will result in a reduction of 474 juvenile petty offense and misdemeanor cases resulting from an incident on school grounds. This estimate is based on 2018-19 data, and actual records of cases for incidents on school grounds. It assumes that 20 percent of juvenile petty offense or misdemeanor cases resulted from an incident on school grounds.

The fiscal note estimates that the bill will result in a reduction of 294 juveniles sentenced to probation. This estimate is based on the assumption that 70 percent of school-related probation cases are petty offense or misdemeanors, and 10 percent of those cases are combined with an incident that occurred off school grounds.

## **State Revenue**

The bill reduces state revenue by \$18,578 in FY 2021-22, and \$27,496 in FY 2022-23 to the Victim's Assistance Fund and the Victim's Compensation Fund. Revenue reductions are listed in Table 2. Judicial fee revenue is subject to TABOR.

**Table 2  
 Fee Impact of SB 21-182**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Current Fee</b>	<b>Total Fee Impact</b>
<b>FY 2021-22</b>	Victim's Assistance Fee	\$78	(\$8,918)
	Victim's Compensation Fee	\$78	(\$9,661)
	<b>Total</b>		<b>(\$18,578)</b>
<b>FY 2022-23</b>	Victim's Assistance Fee	\$78	(\$13,624)
	Victim's Compensation Fee	\$78	(\$13,872)
	<b>Total</b>		<b>(\$27,496)</b>

**Assumptions.** Of the 474 juveniles who will not be charged with a misdemeanor or petty offense, it is assumed that 33 percent will be indigent and not pay the victim assistance and compensation fees. It also assumes that a portion of the fees assessed in FY 2021-22 will be collected in FY 2022-23 and subsequent years. All assumptions are based on current rates for comparable cases.

### State Expenditures

The bill decreases state General Fund expenditures by a net \$588,257 in FY 2021-22 and 8.3 FTE and \$771,391 and 8.4 FTE in FY 2022-23. In FY 2021-22 only, the expenditure impact includes an increase of \$183,134 to the Colorado Department of Education and a decrease of \$771,391 for the Judicial Department. Costs are listed in Table 3 and discussed below.

**Table 3  
 Expenditures Under SB21-182**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Education</b>		
Computer Programming	\$135,000	-
Contracting Costs	\$37,500	-
Legal Services	\$10,634	-
FTE – Legal Services	0.1 FTE	-
<b>CDE Subtotal</b>	<b>\$183,134</b>	<b>\$0</b>

**Table 3  
 Expenditures Under SB21-182 (Cont.)**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Judicial Department</b>		
Personal Services	(\$582,487)	(\$582,487)
Operating Expenses	(\$22,380)	(\$22,380)
Centrally Appropriated Costs <sup>1</sup>	(\$166,524)	(\$166,524)
FTE – Personal Services	(8.4 FTE)	(8.4 FTE)
<b>Judicial Subtotal</b>	<b>(\$771,391)</b>	<b>(\$771,391)</b>
<b>Total</b>	<b>(\$588,257)</b>	<b>(\$771,391)</b>
<b>Total FTE</b>	<b>(8.3 FTE)</b>	<b>(8.4 FTE)</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**CDE - computer programming.** CDE will modify the district data reporting system to align with the bill's requirements and rules promulgated by the state board, including allowing for individual-level data reporting. Changes are expected to require 1,080 hours in FY 2021-22 only, at a rate of \$125 per hour.

**CDE - contracting and legal services.** CDE will conduct rulemaking related to data reporting, safe school plans, disciplinary approaches, and services for student at risk of dropping out. The department will hire a contractor with subject-matter expertise to facilitate the rulemaking process, including coordinating stakeholder input. In FY 2021-22 only, it is expected to require 300 hours of contract services at a rate of \$125 per hour. CDE will also require 100 hours of legal services for rulemaking, provided by the Department of Law at a rate of \$163.34 per hour.

**Judicial Department.** Based on the assumptions discussed above, the Judicial Department will have a reduction in probation staff of 8.4 FTE, including 6.0 FTE for probation officers, 1.2 FTE in support staff, and 1.2 FTE in probation supervisors, due to the reduction in the number of juveniles that will be charged and sentenced to probation for incidents occurring on school grounds. These estimates are based on the assumption that there will be a decrease of 294 probation cases, of which 70 percent are low-risk and 20 percent are medium risk. It is also based on current supervisor and support staff ratios, pre-sentence investigations and workload per case.

*Trial courts and collections.* Due to the reduction in cases, the bill also reduces workload for the trial courts to handle fewer cases and for collections staff to handle fewer probation cases and associated fees. No change in appropriations is required from this reduction in caseload.

*Other Judicial agencies.* By decreasing the number of students charged with criminal offenses, the bill will also decrease workload for the agencies that provide representation to indigent persons. Any changes to appropriations to these agencies, if needed, will be adjusted through the annual budget process.

**Department of Public Safety.** The bill increases workload for the School Safety Resource Center to modify training materials and technical assistance provided to districts, which can be accomplished within existing resources.

**Department of Human Services.** The bill may decrease workload for the Division of Youth Services by a minimal amount. It is assumed that few, if any, juveniles charged with a misdemeanor or petty offense for an incident on school grounds are sentenced to DYS.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to decrease by \$166,524 in FY 2021-22 and FY 2022-23.

**TABOR refunds.** The bill decreases 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 decrease the amount required to be refunded to taxpayers from the General Fund in FY 2023-24. If the bill causes revenue to fall below the limit by \$30 million, it will trigger a transfer of up to \$30 million from the Unclaimed Property Trust Fund to the Housing Development Grant Fund under current law enacted in House Bill 19-1322.

## **School District**

The bill increases costs for school districts. Costs will vary among school districts, based on current policies in place, district size, and available resources and may include the following:

- modifications to data reporting systems;
- hiring and/or training staff to serve as a discipline liaison;
- new or modified SRO contracts, including training, developing evaluation tools and a memorandum of understanding; and
- staff training on inclusionary approaches to discipline and best practices.

One estimate suggests that training costs could be around \$1,000 per teacher, and up to \$500 per support staff, office staff, and other staff that interact with students, such as bus drivers and counselors; however, actual costs will depend on how many staff receive training, the form of the training, and the level of follow up coaching and skill development.

## **Local Government**

The decrease in juveniles charged with misdemeanor and petty offenses will decrease workload for district attorneys to prosecute these cases. Workload and revenue is also reduced to Denver County courts for its trial court and probation division.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State Appropriations**

In FY 2021-22, the bill requires the following General Fund appropriations:

- an increase of \$183,134 to the Colorado Department of Education, of which \$10,634 is reappropriated to the Department of Law, and 0.1 FTE; and
- a reduction of \$604,867 to the Judicial Department, and a reduction of 8.4 FTE.

## **State and Local Government Contacts**

Corrections  
Human Services  
Law  
School Districts

Counties  
Information Technology  
Municipalities  
Sheriffs

Education  
Judicial  
Public Safety