



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 21-0328 **Date:** September 8, 2021
Prime Sponsors: Sen. Danielson; Pettersen **Bill Status:** Signed into Law
Rep. Young; Boesenecker **Fiscal Analyst:** Will Clark | 303-866-4720
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Bill Topic: **STRICTER TRANSPARENCY & ENFORCEMENT IN CHILD CARE**

Summary of Fiscal Impact:

| | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input checked="" type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill makes changes to reporting requirements for the Department of Human Services, and to legal penalties for family child care facility license violations. The bill increases state expenditures, and may increase state revenue on an ongoing basis.

Appropriation Summary: For FY 2021-22, the bill requires and includes an appropriation of \$83,375 to the Department of Human Services.

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

Table 1
State Fiscal Impacts Under SB 21-201

| | | Budget Year FY 2021-22 | Out Year FY 2022-23 |
|---------------------|---------------|-----------------------------------|--------------------------------|
| Revenue | | - | - |
| Expenditures | Federal Funds | \$83,375 | \$23,500 |
| Transfers | | - | - |
| TABOR Refund | | - | - |

Summary of Legislation

The bill makes several changes to requirements and penalties for child care facilities that are required to be licensed or that are exempt from licensure by the Department of Human Services (DHS) and county departments of human or social services, as outlined below.

Public information. The bill requires the DHS to publicly post the name and location of any child care provider that is operating without a valid license exemption, and has one or more cease-and-desist orders issued against it, along with the dates of each order. If more than one cease-and-desist order has been issued, DHS must post the total number of such orders. All of this information must be accessible and prominent on the department's child care provider website on or before December 31, 2021, and ongoing thereafter, in a manner that is consumer friendly in an accessible format and organized by provider.

Injunctive relief. The bill requires the DHS to apply for an injunction if a child care facility:

- is operating without a license or valid license exemption;
- has a pattern of providing child care in violation of licensing requirements, and
- has continued to provide care despite notification from the DHS that it is violating the law.

At the time that the DHS applies for an injunction, it must notify law enforcement about the injunction proceedings. If a provider violates an injunction issued by the courts, the bill allows them to be tried and punished for contempt of court.

Criminal offenses. The bill makes it a petty offense for operators of a child care facility to not address a violation resulting in a cease-and-desist order given by the DHS or county departments. This offense may result in a fine of up to \$500 or a sentence of up to 10 days in jail, or both. It also reclassifies existing misdemeanor offenses for violating family child care license provisions or making a false statement or report to the department as a petty offense. These offenses are subject to the penalties listed above, rather than a fine only of between \$300 and \$500 as under current law.

Civil penalties. The bill revises and increases penalties and fines for child care facility operators to \$250 a day for the first day of a violation, \$500 a day for the second day, and \$1,000 a day for subsequent days, up from \$150 a day under current law. The maximum combined penalty remains \$10,000 as under current law.

CCCAP eligibility. The bill clarifies that family child care home providers are not eligible for issuance or renewal of Colorado Child Care Assistance Program contracts if they have demonstrated a pattern of petty offense convictions within the past ten years.

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. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offenses.

Prior conviction data and assumptions. This bill creates a new petty offense for violating a cease-and-desist order that is not addressed in the time allotted. The bill also reclassifies the existing offenses of violating family child care license provisions, or intentionally making a false statement or report in a related investigation or inspection, from a misdemeanor to a petty offense, and makes changes to related penalties. From 2018 to 2020, zero offenders have been sentenced and convicted for these existing offenses. Though the bill adds a new offense related to child care licensing violations, the fiscal note assumes that most child care providers will follow the law, and there will continue to be minimal or no additional criminal case filings or convictions as a result of this bill.

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

State Revenue

The bill potentially increases revenue from both civil penalties and criminal fines for violations of family child care license provisions. Civil penalties are deposited to the Child Care Cash Fund, and criminal fines to the Fines Collection Cash Fund. This revenue is subject to the state's TABOR limit. Based on the Comparable Crime Analysis above, it is assumed that there will be a minimal impact on criminal fine revenue. Raising daily civil penalties will also increase revenue, but since the overall cap remains same, any increase is assumed to be minimal.

State Expenditures

This bill increases expenditures for the DHS by \$83,375 in FY 2021-22 and \$23,500 in FY 2022-23 and future years. It will also increase workload in the Judicial Department on an ongoing basis. These impacts are summarized in Table 2 and described in more detail below.

Table 2
Expenditures Under SB 21-201

| | FY 2021-22 | FY 2022-23 |
|-------------------------------------|-----------------|-----------------|
| Department of Human Services | | |
| Computer programming | \$83,375 | - |
| Ongoing system maintenance | - | \$23,500 |
| Total | \$83,375 | \$23,500 |

Department of Human Services. Expenditures in the DHS will increase in FY 2021-22 and future years, paid from the federal Child Care and Development Fund grant, as described below.

Computer programming. In FY 2021-22, the DHS will require \$83,375 to make changes to its public facing child care provider website, Colorado Shines. This cost includes 667 hours of computer programming work, at a rate of \$125 per hour, for a new cease-and-desist field in the existing licensing database, a unique identifier that will be applied to existing cease-and-desist records, and a new application programming interface that will connect information from the existing licensing database to a new webpage for the Colorado Shines database. These service hours will be purchased under an existing contract with a vendor.

Ongoing system maintenance. In FY 2022-23 and future years, DHS will require \$23,500 for ongoing maintenance of the new system changes, which includes 188 hours of work annually, at a rate of \$125 per hour.

Judicial Department. Workload and costs for the trial courts in the Judicial Department may minimally increase if the criminal offense that is expanded by this bill leads to additional criminal or civil filings. The Judicial Department will also be required to make minor updates to its case management system. These changes can be absorbed within existing appropriations.

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by a minimal amount. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-2023.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Effective Date

The bill was signed into law by the Governor and took effect on June 16, 2021.

State Appropriations

For FY 2021-22, the bill requires and includes an appropriation of \$83,375 to the Department of Human Services from federal funds.

State and Local Government Contacts

Child Welfare
Human Services
Law

Counties
Information Technology
Public Safety

District Attorneys
Judicial