



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 22-0303	Date:	February 8, 2022
Prime Sponsors:	Rep. Michaelson Jenet; Soper	Bill Status:	House Judiciary
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Bill Topic:	PROHIBIT SEXUAL ACT WITHOUT CONSENT
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Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill changes an element of the crime of sexual assault to certain acts done without consent. It may increase state and local expenditures beginning in FY 2022-23.

Appropriation Summary:	No appropriation is required.
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Fiscal Note Status:	The fiscal note reflects the introduced bill.
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Summary of Legislation

Under current law, one of the grounds for committing the crime of sexual assault is infliction of sexual intrusion or sexual penetration if the actor causes submission of the victim by means of sufficient consequence reasonably calculated to cause submission against the victim's will. The bill changes these grounds to causing sexual intrusion or sexual penetration knowing the victim does not consent.

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 creates a new factual basis for 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 resulting from the bill.

Prior conviction data. This bill creates a new factual basis for the existing offense of sexual assault, a class 4 felony, by clarifying that the grounds for committing sexual assault include sex acts knowingly done without consent. From FY 2018-19 to FY 2020-21, 273 individuals have been convicted and sentenced for this offense. Of the persons convicted, 272 were male and 1 was female. Demographically, 189 were White, 46 were Black/African American, 31 were Hispanic, 1 was Asian, 3 were American Indian, 3 were classified as "Other," and 1 did not have a race identified.

Assumptions. Most cases filed under the statute modified by the bill are prosecuted in district court. The bill may shift some cases from the county courts to district courts if the new definition makes it easier to demonstrate that an offense was sexual assault rather than the existing offense of unlawful sexual contact, a class 1 misdemeanor. Any change in the number of cases or shifting of misdemeanor cases to felony cases is assumed to be minimal. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue and Expenditures

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount to the extent there are additional criminal cases brought or some cases are shifted from county to district court. Similarly, any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, are assumed to be minimal and no change in appropriations is required.

Local Government

The bill potentially increases workload and costs for district attorneys, while minimally reducing costs for county jails. To the extent the bill increases the number of sexual assault cases prosecuted or shifts cases from misdemeanor to more serious felony charges, district attorneys may have additional workload. For county jails, some minimal savings may be incurred if some persons who may be convicted of a misdemeanor under current law are instead sentenced to the Department of Corrections for a felony offense. District attorney offices and county jails are funded by counties. Similarly, the bill may decrease revenue, workload, and costs for the Denver County Court, which is managed and funded by the City and County of Denver.

Effective Date

The bill takes effect July 1, 2022, and applies to offenses committed on or after that date.

State and Local Government Contacts

District Attorneys

Judicial