



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-097: DECRIMINALIZE ADULT COMMERCIAL SEXUAL ACTIVITY

**Prime Sponsors:**

Sen. Hinrichsen; Cutter  
Rep. Garcia; Stewart R.

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**Fiscal note status:** This fiscal note reflects the introduced bill.

### Summary Information

**Overview.** The bill decriminalizes consensual adult commercial sexual activity.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- Minimal State Workload
- Local Government

**Appropriations.** No appropriation is required.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

## **Summary of Legislation**

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The bill updates the term “prostitution” to “commercial sexual activity,” repeals existing prostitution-related crimes involving consensual sexual activity among adults, and makes other conforming changes as described below.

### **Repealed Crimes**

The bill repeals the following crimes:

- the petty offense of prostitution;
- the petty offense of soliciting for prostitution;
- the class 2 misdemeanor for knowingly arranging a situation in which a person may practice prostitution;
- the class 2 misdemeanor for keeping a place of prostitution;
- the petty offense of patronizing a prostitute; and
- the petty offense of a prostitute making a display to further the practice of prostitution.

In addition, the bill preempts any local government ordinance criminalizing consensual commercial sexual activity among adults and repeals prostitution offender programs created by municipal or county courts. The bill maintains existing criminal offenses related to human trafficking and pimping.

### **Civil Forfeiture**

The bill also removes buildings that were used as places of prostitution from the list of places constituting a public nuisance, meaning these places cannot be seized by and forfeited to law enforcement.

### **Professional Licenses and Certifications**

The bill removes the prohibition of massage therapists and peace officers from receiving a license or certification with a conviction of prostitution on their record.

## **Background**

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Under state law, proceeds from forfeited properties are used to pay back liens, compensate victims, and to cover any expenses incurred by law enforcement, district attorneys, or the courts. After that distribution, the balance is allocated as follows:

- 50 percent to the general fund of the governmental body with the seizing agency;
- 25 percent to behavioral health administrative service organizations contracting with the Behavioral Health Administration to fund substance use disorder treatment; and
- the remaining 25 percent to the Law Enforcement Community Services Grant Program.

## **Comparable Crime Analysis**

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Legislative Council Staff is required to include certain analysis in the fiscal note for any bill that creates a new crime, or that either reclassifies or creates a new factual basis for an existing crime. This section identifies comparable crimes, and the following section discusses assumptions on future conviction rates resulting from the bill. While the bill changes updates references in statute to "commercial sexual activity", the fiscal note reflects the current terminology used for these existing offenses.

### **Prostitution**

This bill repeals the existing offense of prostitution. From FY 2022-23 to FY 2024-25, 5 individuals have been convicted and sentenced for this offense. Of the persons convicted, all 5 were female. Demographically, 3 were White and 2 were Black/African American.

### **Soliciting for Prostitution**

This bill repeals the existing offense of soliciting prostitution. From FY 2022-23 to FY 2024-25, 26 individuals have been convicted and sentenced for this offense. Of the persons convicted, 21 were male, 4 were female, and 1 did not have a gender identified. Demographically, 18 were White, 5 were Black/African American, 1 was Hispanic, 1 was Asian and 1 was classified as "Other."

### **Knowingly Arranging Prostitution**

This bill repeals the existing offense of knowingly arranging prostitution. From FY 2022-23 to FY 2024-25, 4 individuals have been convicted and sentenced for this offense. Of the persons convicted, 3 were male, and 1 was female. Demographically, 2 were White, and 2 were Asian.

### **Keeping a Place of Prostitution**

This bill repeals existing offense keeping a place of prostitution From FY 2022-23 to FY 2024-25, 8 individuals have been convicted and sentenced for this offense. Of the persons convicted, 3 were male and 5 were female. Demographically, 1 was White, 2 were Black/African American, 1 was Hispanic, and 4 were Asian.

### **Patronizing a Prostitute**

This bill repeals the existing offense of patronizing a prostitute. From FY 2022-23 to FY 2024-25, 15 have been convicted and sentenced for this offense. Of the persons convicted, 14 were male and 1 did not have a gender identified. Demographically, 14 were White, and 1 was Asian.

### **Prostitute Making a Display**

This bill repeals the existing offense of a prostitute making a display. From FY 2022-23 to FY 2024-25, one white male has been convicted and sentenced for this offense.

## **Assumptions**

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### **Criminal Justice Assumptions**

This analysis assumes that there will be approximately 4 fewer misdemeanor cases and 16 fewer petty offense cases sentenced per year for the offenses repealed under the bill. Due to the low number and low classification of these offenses, and because petty offenses usually receive only a fine, any decreases in costs in the criminal justice system are assumed to be minimal. As such, these potential impacts are not discussed further in this fiscal note. Visit the [Fiscal Notes website](#) for more information about criminal justice costs in fiscal notes.

### **Massage Therapy Licensing**

Under current law, the Department of Regulatory Agencies (DORA) reports that on average there are 98 complaints per year about massage therapists that were related to professional standards or inappropriate touching. It is unclear how many of these complaints represent only conduct related to commercial sexual activity or includes other types of inappropriate conduct. According to the [2021 sunset report](#), there were 10 violations per year for sexual acts between FY 2015-16 and FY 2019-20. The fiscal note assumes the number of complaints will be minimally impacted by the bill, and that massage therapists will continue to follow professional standards.

## **State Revenue**

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The bill may impact state revenue from massage therapist license fees and civil forfeiture proceeds, as described below.

### **Massage Therapist License Fees**

Starting in FY 2026-27, revenue to the Professions and Occupations Cash Fund may increase to the extent DORA receives an increase in applications for massage therapy licenses due to the removal of the prohibition of message therapists from receiving a license for a conviction for prostitution. Currently, DORA reports an average of 10 applicants per year who are denied due to a prostitution-related conviction. If this average continues and these individuals meet the other requirements of licensure, revenue would increase by a minimal amount.

### **Civil Forfeiture**

To the extent the bill reduces the number of seizures by law enforcement for public nuisances related to prostitution, revenue to the state will decrease. It is assumed that most forfeitures for this type of nuisance occurs at the local level, and that seizures impacted by this bill also occur infrequently. Therefore, any decrease in state revenue is assumed to be minimal.

## **State Expenditures**

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The bill increases workload in DORA to process additional applications and to conduct any outreach to highlight that the change in law does not change the standards of practice for massage therapists. In addition, to the extent DORA does receive additional complaints, expenditures will increase to investigate such complaints. As outlined in the Assumptions Section, any increase is assumed to be minimal.

## **Local Government**

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Similar to the state, to the extent the bill reduces the number of forfeitures to local law enforcement, revenue to that local government will decrease. In addition, the bill increases workload to local governments to update any ordinances and rules to align with the bill, including updating rules around escort bureaus. Finally, workload for municipal courts, district attorneys, and county jails will decrease due to decriminalizing commercial sexual activity.

## **Effective Date**

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The bill takes effect July 1, 2026, and applies to conduct occurring on or after this date.

## **Departmental Difference**

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DORA estimates that the bill increases state revenue by \$164,000 in FY 2026-27 and increases expenditures by \$82,000 per year and 0.7 FTE to process additional applications and to investigate additional complaints. DORA estimates that the bill will lead to a 50 percent increase in complaints related to professional standards or inappropriate touching for massage therapists, which would require additional investigations. The fiscal note acknowledges that complaints may increase, but believes that, under the bill, the rate of complaints will more or less remain the same since sexual acts are still grounds for discipline with or without the bill.

## **State and Local Government Contacts**

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Corrections

Judicial

Counties

Municipalities

District Attorneys

Regulatory Agencies

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).