



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1206: EXTREME INDIFFERENCE OFFENSE NOT CAUSING DEATH

Prime Sponsors:

Rep. Carter; Bacon
Sen. Weissman

Fiscal Analyst:

Aaron Carpenter, 303-866-4918
aaron.carpenter@coleg.gov

Published for: House Judiciary

Drafting number: LLS 25-0575

Version: Initial Fiscal Note

Date: February 27, 2025

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

Summary Information

Overview. The bill changes the classification for certain crimes with components of extreme indifference.

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

- State Revenue
- State Expenditures

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

| Type of Impact | Budget Year FY 2025-26 | Out Year FY 2026-27 | Out Year FY 2034-35 |
|-----------------------------------|---------------------------|------------------------|------------------------|
| State Revenue | \$0 | \$0 | \$0 |
| State Expenditures (General Fund) | \$0 | \$0 | -\$1,146,429 |
| Transferred Funds | \$0 | \$0 | \$0 |
| Change in TABOR Refunds | \$0 | \$0 | \$0 |
| Change in State FTE | 0.0 FTE | 0.0 FTE | 0.0 FTE |

Summary of Legislation

The bill changes the classification of crimes involving extreme indifference, as described below.

Criminal Attempt

The bill reclassifies first degree murder attempt with an attitude of universal malice manifesting extreme indifference to the value of human life as follows:

- a class 3 felony if the person suffers serious bodily injury;
- a class 4 felony if the persons suffer bodily injury; and
- a class 5 felony if no one is injured.

First Degree Assault

Under current law, it is first degree assault when, under circumstances manifesting extreme indifference to the value of human life, a person engages in conduct which creates a grave risk of death to another person and causes serious bodily injury. The bill removes this component of assault in the first degree.

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 section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Criminal Attempt First Degree Murder — Extreme Indifference

This bill reclassifies the existing class 2 felony offense of criminal attempt of first degree murder in cases of extreme indifference to lower felony levels. From FY 2021-22 to FY 2023-24, 100 have been convicted and sentenced for this offense. Of the persons convicted, 95 were male, and 5 were female. Demographically, 62 were White, 30 were Black/African American, 6 were Hispanic, 1 was Asian, and 1 was classified as "Other."

Assault in the First Degree — Extreme Indifference

This bill creates a new factual basis for the existing offense of first degree assault by removing extreme indifference as a component of the crime. From FY 2021-22 to FY 2023-24, 138 have been convicted and sentenced for this offense. Of the persons convicted, 130 were male, 7 were female, and 1 did not have a gender identified. Demographically, 90 were White, 34 were Black/African American, 9 were Hispanic, 1 was Asian, 2 were American Indian, 1 was classified as "Other," and 1 did not have a race identified.

Assumptions

Criminal Attempt First Degree Murder

Currently, about 35 individuals per year are sentenced to the Department of Corrections (DOC) for attempted first degree murder with extreme indifference. The fiscal note assumes that sentences to the DOC are based on circumstances around the crime, rather than crime classification level, therefore, it is assumed the bill will not result in fewer sentences to the DOC.

However, the fiscal note does assume that lower classifications will result in less time in the DOC, as the different felony classifications have different presumptive ranges and average lengths of stay. The DOC reports that individuals currently sentenced for attempted first degree murder for extreme indifference spend about 9 years in the DOC. In addition, the Division of Criminal Justice reports the average length of stay for class 3 felonies is 7 years. Assuming that the majority of cases involve serious bodily injury, individuals will be sentenced to the class 3 felonies under the bill instead of class 2 felonies under current law.

First Degree Assault

The fiscal note assumes that individuals currently charged with first degree assault will instead be charged with the class 3 felony of attempted murder in the first degree with extreme indifference. Therefore, repealing this offense does not result in any changes in criminal cases or sentencing.

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

State Revenue

Criminal Fines and Court Fees

By modifying existing felony offenses, the bill will decrease state revenue from criminal fines and court fees by an indeterminate amount beginning in FY 2025-26, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. For informational purposes, the fine penalty ranges for the current law felony and the lesser degree felonies in the bill are as follows:

- \$5,000 to \$1,000,000 for a class 2 felony;
- \$3,000 to \$750,000 for a class 3 felony;
- \$2,000 to \$500,000 for a class 4 felony; and
- \$1,000 to \$100,000 for a class 5 felony.

Additionally, court fees may be imposed on a case by case basis for a variety of court related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

State Expenditures

The bill reduces state expenditures in the DOC by about \$0.6 million in FY 2033-34 and by about \$1.1 million per year starting in FY 2034-35. This reduction of expenditures will come from the General Fund.

Department of Corrections

As discussed in the Comparable Crime Analysis assumptions, the change in classification for first degree murder attempt under the bill and a two-year difference in the average length of stay between a class 2 felony and a class 3 felony conviction will generate a cost savings to the Department of Corrections. Savings are estimated to begin in FY 2033-34 based on an assumed one-year delay before cases are resolved. Table 2 below illustrates DOC savings by comparing the current private prison bed cost versus parole cost for the DOC and an assumed 35 offenders per year. If individuals are sentenced for attempted murder as a class 4 or 5 felony, savings will occur sooner than estimated.

Table 2
State Expenditures
Prison and Parole Operating Savings

| Fiscal Year | Prison ADP Impact¹ | Prison Cost | Parole ADP Impact¹ | Parole Cost | Total Cost |
|----------------------------|--------------------------------------|---------------------|--------------------------------------|--------------------|---------------------|
| FY 2025-26 | 0.00 | \$0 | 0.00 | \$0 | \$0 |
| FY 2033-34 | -35.00 | -\$866,784 | 35.00 | \$293,570 | -\$573,214 |
| FY 2034-35 | -70.00 | -\$1,733,568 | 70.00 | \$587,139 | -\$1,146,429 |
| Future Cost Savings | | -\$2,600,351 | | \$880,709 | -\$1,719,643 |

¹ ADP impact signifies the bill's effect on average daily populations in DOC.

Effective Date

The bill takes effect September 1, 2025, assuming no referendum petition is filed, and applies to offenses on or after this date.

State and Local Government Contacts

Corrections

Judicial

District Attorneys