



**Colorado
Legislative
Council
Staff**

HB16-1059

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0421
Prime Sponsor(s): Rep. Lawrence
Sen. Todd

Date: May 19, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: RETALIATION AGAINST A JUDGE

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u><\$5,000</u>	<u><\$5,000</u>
Cash Funds	<\$5,000	<\$5,000
State Expenditures		
General Fund		\$21,864
TABOR Impact	See TABOR Impact section.	
FTE Position Change		
Appropriation Required: \$70,692 - Department of Corrections (FY 2016-17 to FY 2020-21)		
Future Year Impacts: Ongoing state expenditure increase and potential revenue increase.		

Summary of Legislation

This bill clarifies that, for purposes of the crime of retaliation against a judge, a current or previous state justice whom the chief justice of Colorado appoints to perform judicial duties is included in the term "judge."

Background

Under current law, it is a class 4 felony to make a credible threat, to commit an act of harassment, or to perform an act of harm or injury upon a person or property as retaliation or retribution against a judge. The penalty for a class 4 felony is a term of incarceration of two to eight years, a fine of \$2,000 to \$500,000, or both.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 the existing crime that creates a new factual basis for the offense. In the last five years, there have been 24 convictions of retaliation against a judge. Of this number, 19 offenders were male and 5 were female; 3 offenders were African American and 21 were Caucasian.

State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 4 felony is \$2,000 to \$500,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2015, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

TABOR Impact

To the extent that persons are convicted under this bill and assessed a fine, this bill may increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund. TABOR refund obligations are not expected for FY 2016-17.

State Expenditures

This bill is anticipated to increase workload beginning in FY 2016-17 and costs of \$70,692 General Fund over a five-year period.

Five-Year Fiscal Impact on Correctional Facilities

This bill is anticipated to increase state General Fund expenditures by an estimated \$70,692 General Fund for the Department of Corrections (DOC). This increase assumes one offender will be convicted of a class 4 felony every five years. Based on current estimates, each offender will have an average length of stay of 38.8 months.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 1 shows the estimated cost of the bill over the next five fiscal years.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2016-17	0.0	\$0	\$0	\$0
FY 2017-18	1.0	\$0	\$21,864	\$21,864
FY 2018-19	1.0	\$0	\$21,864	\$21,864
FY 2019-20	1.0	\$0	\$21,864	\$21,864
FY 2020-21	0.2	\$0	\$5,100	\$5,100
Total		\$0	\$70,692	\$70,692

Judicial Department. The bill may increase workload or costs for the trial courts, Office of the State Public Defender and Office of Alternate Defense Counsel, to hear cases and provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

State Appropriations

The Department of Corrections requires the five-year appropriations shown in Table 1.

Effective Date

The bill was postponed indefinitely by the Senate Appropriations Committee on April 27, 2016.

State and Local Government Contacts

Corrections
 Information Technology

District Attorneys

Judicial