



**Colorado
Legislative
Council
Staff**

HB16-1307

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 16-0891
Prime Sponsor(s): Rep. Melton
Sen. Cooke

Date: May 18, 2016
Bill Status: Postponed Indefinitely
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: THREATS TO PERSONS AT POSTSECONDARY INSTITUTIONS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
Cash Funds	Potential increase.	
State Expenditures		
General Fund	Workload increase.	\$43,728
TABOR Impact	Potential increase.	
Appropriation Required: \$178,188 - Department of Corrections (FY 2016-17 - FY 2020-21)		
Future Year Impacts: Ongoing expenditure increase.		

Summary of Legislation

This bill increases the penalty for certain actions related to the interference with staff, faculty, or students of educational institutions. Under current law, knowingly making a credible threat that causes another person to be in fear of bodily injury with a deadly weapon or death is a class 1 misdemeanor. This bill clarifies that it is a class 6 felony when the threat is for serious bodily injury with a deadly weapon or death and the victim is a student, official, employee, or guest of an institution of higher education.

Comparable Crime

Under current law, 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 past three years, there have been 174 cases with at least one charge of interference with staff, faculty, or students of educational institutions. Of this number, 145 are juvenile cases and 29 are adult cases. For the 29 adult cases, 6 are female (2 African American, 4 Caucasian) and 23 are male (1 Hispanic, 3 African Americans, 19 Caucasian). Of this number, nine were sentenced to jail. It is unknown how many of these offenses were at institutions of higher education or whether any of these included threats of bodily injury versus serious bodily injury or death.

State Revenue

Overall, beginning in FY 2016-17, this bill may increase state revenue.

Increased fines. The fine penalty for a class 6 felony is \$1,000 to \$100,000, as compared to the fine penalty for a class 1 misdemeanor, which is \$500 to \$5,000. To the extent that changing the classification of this crime causes judges to increase fine penalties, revenue will increase.

Reduction in probation revenue. The fiscal note assumes that two persons per year may be sentenced to the DOC rather than some combination of jail and/or probation. Persons on probation currently pay a fine of \$50 per month of supervision.

TABOR Impact

This bill may increase state cash fund revenue from criminal fine penalties, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

Overall, this bill will increase workload beginning in FY 2016-17. Costs will also increase in the Department of Corrections (DOC) beginning in FY 2017-18.

Assumptions. The fiscal note assumes there are about 10 cases per year of threats against persons at institutions of higher education. Currently three persons per year are sentenced to terms of jail. The fiscal note assumes that some of these offenses may not qualify for the enhanced penalty or would continue to result in a sentence to jail. Costs are based on the assumption that two offenders per year will be sentenced to the DOC.

Judicial Department. Increasing the penalty for certain types of threats against persons at institutions of higher education will move these trials from county court to district court. Felony cases generally take longer to adjudicate, increasing workload for trial courts by a minimal amount. The bill may also increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel to provide representation for any persons deemed to be indigent. Based on the assumption that two people will be sentenced to the DOC per year rather than probation and/or jail, probation workload is expected to decrease by a minimal amount. The fiscal note assumes all of these impacts are minimal and will not require an adjustment in appropriations for any agency within the Judicial Department.

Five-Year Fiscal Impact on Correctional Facilities

This bill is anticipated to increase state General Fund expenditures by an estimated \$178,188 for the Department of Corrections (DOC) through FY 2020-21. This increase assumes 2 offenders per year will be convicted of a class 6 felony and have an average length of stay of 12.3 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.

Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2016-17	0.0	\$0	\$0	\$0
FY 2017-18	2.0	\$0	\$43,728	\$43,728
FY 2018-19	2.05	\$0	\$44,820	\$44,820
FY 2019-20	2.05	\$0	\$44,820	\$44,820
FY 2020-21	2.05	\$0	\$44,820	\$44,820
Total			\$178,188	\$178,188

Local Government Impact

This bill will affect local governments in several ways. First, similar to the trial courts, workload for felony cases is higher than that of misdemeanor cases. As such, the bill may increase workload for district attorneys to prosecute offenses under the bill. Second, the bill may result in fewer persons sentenced to jail. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. Finally, the bill may result in a decrease in workload for the Denver County Court, managed and funded by the City and County of Denver, if the court tries fewer misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a minimal decrease in workload and revenue to supervise persons no longer convicted of misdemeanors under the bill.

Effective Date

The bill was postponed indefinitely by the House Judiciary Committee on April 7, 2016.

State Appropriations

The DOC requires the five-year General Fund appropriations shown in Table 1.

State and Local Government Contacts

Corrections
Information Technology

District Attorneys
Judicial Criminal

Higher Education
Sheriffs