



**Colorado  
Legislative  
Council  
Staff**

**HB16-1066**

**FISCAL NOTE**

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

**Drafting Number:** LLS 16-0075  
**Prime Sponsor(s):** Rep. Roupe  
Sen. Newell

**Date:** January 22, 2016  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** HABITUAL DOMESTIC VIOLENCE OFFENDERS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b> Cash Funds	Potential increase.	
<b>State Expenditures</b> General Fund	Potential increase.	
<b>TABOR Impact</b>	Potential increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Potential ongoing increase in state revenue and expenditures.		

**Summary of Legislation**

This bill modifies the procedures under which an offender is designated and sentenced as a habitual domestic violence offender. Rather than requiring that the court (judge) make a finding of fact concerning the inclusion of an act of domestic violence as an underlying factual basis for such a designation, this bill allows that finding to be determined by the trier of fact (judge or jury).

**Background**

Under current law, a person who is convicted of a misdemeanor for an offense where the underlying factual basis is domestic violence and has three prior convictions that include an act of domestic violence can be designated as a habitual domestic violence offender. A habitual domestic violence offense is sentenced as a class 5 felony extraordinary risk crime rather than as a class 1 misdemeanor. The penalty for a class 5 felony extraordinary risk crime is a sentence of between one and four years in a state prison, a fine of between \$1,000 to \$100,000, or both. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. As of this writing, no data are available to indicate how many additional persons could be sentenced as a habitual domestic violence offender under House Bill 16-1066.

## State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by a minimal amount, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 5 felony is \$1,000 to \$100,000, while the fine penalty for a class 1 misdemeanor is \$500 to \$5,000. To the extent that this bill makes it easier to classify certain persons as habitual domestic violence offenders and eligible for a felony rather than a misdemeanor and a judge levies a higher fine, revenue may increase. However, if those offenders would have otherwise been sentenced to probation, which includes a fee of \$50 per month, revenue will decrease. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined.

## TABOR Impact

Overall, this bill may increase state cash fund revenue from fines, 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 may increase workload and costs beginning in FY 2016-17.

**Judicial Department.** To the extent that this bill makes it easier to prosecute certain persons as a habitual domestic violence offender and beginning in FY 2016-17, workload will increase for the trial courts to process affected cases as felonies rather than misdemeanors. If defendants are represented by the Office of the State Public Defender or Alternate Defense Counsel, costs will increase for these agencies to process more complex, felony-level cases. These impacts are anticipated to be minimal. If costs require an increase in appropriations in the future, the fiscal note assumes that any affected agencies within the Judicial Department will request them through the annual budget process.

**Department of Corrections.** To the extent that this bill makes it easier to sentence certain persons as habitual domestic violence offenders, this bill will increase costs for the Department of Corrections (DOC). The fiscal note assumes that any such increases would occur beginning in FY 2017-18, based on the assumption that there is a one-year delay due to the estimated time for criminal filing, trial, disposition, and sentencing. 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. Because it is unknown how many, if any, persons would qualify for the change in sentencing, this analysis assumes that the DOC will request any required increases in appropriations through the annual budget process.

## Local Government Impact

This bill will affect local governments in several ways, as discussed below. Overall, it is assumed that the impact of this bill will be minimal for all local governments.

***Prosecution of certain cases a felonies rather than misdemeanors.*** To the extent that this bill makes it easier for certain cases to be prosecuted as a felony rather than a misdemeanor, costs and workload for district attorneys will increase.

***County jail costs.*** To the extent that this bill decreases misdemeanor convictions and offenders are sentenced to prison instead of jail, costs will decrease. 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.

***Denver County Court.*** The bill results in a decrease in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try fewer misdemeanor cases under the bill when those cases move to district court for felony prosecution. Probation services in the Denver County Courts may also experience a minimal decrease in workload and revenue as a result of lessened need to supervise persons convicted of domestic violence offenses.

**Effective Date**

The bill takes effect July 1, 2016, and applies to offenses committed on or after this date.

**State and Local Government Contacts**

Corrections  
Judicial

District Attorneys  
Office of Information Technology