



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number:	LLS 18-0958	Date:	April 6, 2018
Prime Sponsors:	Rep. Singer; Landgraf Sen. Smallwood; Kefalas	Bill Status:	House Public Health Care and Human Services
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Bill Topic: ABUSE OF YOUTH UNDER 21 IN CARE OF INSTITUTION

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill expands the crime of child abuse to include abuse against youths who are between the age of 18 and 21 and are cared for in a facility. The bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 18-1346**

		FY 2018-19	FY 2019-20
Revenue	General and Cash Funds	less than \$5,000	less than \$5,000
Expenditures		-	-
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

This bill adds "youth in a facility" to the definition of child abuse and institutional abuse. "Youth in a facility" is defined as a person younger than 21 who is being cared for in:

- a residential child care facility;
- a specialized group facility;
- a foster care home;
- non-certified kinship care; or
- a facility or community placement for a youth committed to the custody of the state Department of Human Services.

Comparable Crime

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. Under the bill, the definition of child abuse is expanded to include youth age 18 to 21 who are in the care of a facility. Child abuse charges can range from a class 3 misdemeanor, with a presumptive range of no time imprisonment to twelve months imprisonment, to a class 1 felony, with a presumptive range of life imprisonment to the death sentence, depending on a number of factors. From January 2015 to January 2018, there were 2,694 convictions of child abuse, of which, 1,644 were male and 1,050 were female and 2,160 were Caucasian, 280 were African American, 175 were Hispanic, 36 were Native American, 22 were Asian, and 21 were classified as other.

Assumptions

Because the bill expands the definition of child abuse to a very specific population of youth between 18 to 21 in a facility, the fiscal note assumes that an increase in cases of child abuse will be minimal. It is estimated that there will be less than 10 new cases a year. It is unknown what level of crime these new cases will be prosecuted at. However, there will be no cases of felony 1 child abuse since that offense only applies to the death of a child under the age of 12. Finally, the fiscal note assumes that all any impact will not occur until FY 2018-19.

State Revenue

Beginning in FY 2018-19, this bill is anticipated to increase state revenue by less than \$5,000 per year.

Criminal fines. The 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. Child abuse offenses can range from a class 3 misdemeanor to a class 2 felony. The fine penalty for a class 3 misdemeanor offense is \$50 to \$750 and the fine penalty for a class 2 felony is \$5,000 to \$1,000,000. 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 by the courts, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

Court and administrative fees. The bill will also increase state fee revenue by a minimal amount per year to the General Fund and various cash funds. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. For cases that involve misdemeanors, fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

TABOR Refund

On net, this bill increases state General and cash fund revenue subject to TABOR, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20.

For FY 2018-19 and FY 2019-20, the bill increases the TABOR refund obligation by less than \$5,000 while increasing General Fund revenue by at least \$5,000, resulting in a net decrease of less than \$5,000 in the amount available for the General Fund budget. State revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2018-19, this bill potentially increases workload and state expenditures in the Judicial Department and agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. It may also increase state General Fund expenditures in the Department of Corrections, as discussed below.

Judicial Department. The bill could result in new case filings every year, which will increase workload in the trial courts. The bill may also result in an increase in workload for the probation division to provide supervision if more people are sentenced to probation. Overall, the impact to court and probation workload is expected to be minimal and can be accomplished within existing appropriations.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will increase under the bill. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process.

Department of Corrections. To the extent that this bill increases the number of persons convicted of felony child abuse and sentenced to prison, or increases the length of sentences imposed, costs in the Department of Corrections (DOC) costs will increase. Should additional convictions or longer sentences occur, the fiscal note assumes the DOC will request additional appropriations through the annual budget process.

Local Government

The bill will impact local revenue, expenditures, and workload to local governments as discussed below.

Local investigations. County departments of human and social services and local law enforcement will see an increase in workload and expenditures to complete more assessments and investigations to the extent that the bill increases the number of child abuse or institutional abuse cases.

District attorneys. To the extent that the bill results in more cases of child abuse, expenditures and workload will increase for district attorneys. However, based on the assumption of less than 10 cases per year resulting from the bill, the expenditure and workload increase is expected to be minimal.

County jail. Costs to county jails may also increase to the extent that the bill results in new or longer sentences to county jail. Under current law, child abuse can fall under three misdemeanor classes (class 3, class 2, and class 1). A class 3 misdemeanor has a presumptive range of no time in jail to 12 months, a class 2 misdemeanor has a range of 3 months to 18 months, and a class 1 misdemeanor has a range of 6 months to 24 months. Estimated costs to house an offender in a county jail vary from \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.39 to house state inmates.

Denver County Court. For misdemeanor offenses committed in Denver County, criminal fine and court fee revenue and workload will increase. Any sentences to probation will further increase revenue and workload for Denver County Court. Because the court has discretion to impose a term of incarceration, a fine, or both, the precise impact to Denver County has not been estimated. Please refer to the State Revenue section above for information about fine penalty ranges and court fees.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections
Human Services

Counties
Information Technology

District Attorneys
Judicial