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FISCAL NOTE

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Prime Sponsors: Sen. Cooke Bill Status: Senate Judiciary
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Bill Topic: FALSE REPORTING OF AN EMERGENCY

- Summary of Fiscal Impact:
[x] State Revenue [] TABOR Refund
[x] State Expenditure [x] Local Government
[] State Transfer [] Statutory Public Entity

This bill makes false reporting of an imminent threat to public safety by use of a deadly weapon a misdemeanor or a felony under certain circumstances. This bill increases state and local government revenue, costs, and workload. These impacts continue in future years.

Appropriation Summary: This bill requires a five-year Department of Corrections appropriation of \$78,584.

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

Table 1
State Fiscal Impacts under SB 18-068

Table with 4 columns: Revenue, Expenditures, Transfers, FY 2018-19, FY 2019-20. Rows include Revenue (General Fund and Cash Funds), Expenditures (General Fund), and Transfers.

Summary of Legislation

Under current law a person may be charged with a class 2 or 3 misdemeanor depending on the circumstances for making a false report to authorities. Overall, this bill makes it a class 1 misdemeanor to falsely report an imminent threat to public safety by use of a deadly weapon. This crime becomes a felony if;

- the false report causes a building, place of assembly, or facility of public transportation to be diverted from its normal business or if the emergency response causes bodily harm to another person (class 6 felony);
- the emergency response to the false report causes serious bodily harm to another person (class 4 felony); or
- death occurs to another person as a result of the emergency response (class 3 felony).

Offenders may be tried in the county where the false report was made, the county where the false report was communicated to law enforcement, or the county where law enforcement responded to the false report. Offenders must pay restitution equal to the cost of the evacuation or the emergency response.

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 and increases the penalties of such crimes depending on the circumstances. This bill changes elements of an existing crime and increases the penalties in certain circumstances. Sentencing data on the crimes of false reporting to authorities (class 3 misdemeanor or class 2 misdemeanor while committing another crime) and false reporting of explosives (class 6 felony) was analyzed to form an estimate on the prevalence of false reporting.

Since 2015, there have been 4,095 convictions of false reporting to authorities (2,563 Male, 1,531 Female; 1 unknown; 3,352 Caucasian, 340 Black, 279 Hispanic, 59 American Indian, 37 other, 25 Asian, 3 unknown) and 16 convictions of false reporting of explosives (15 Male, 1 Female; 13 Caucasian, 2 Black, 1 Hispanic). Of the convictions for false reporting to authorities, 58 resulted in the offender being sentenced to the Department of Corrections (DOC), however the majority of these (39) were for providing false identification, which is processed under the same statute. Of the convictions for false reporting of explosives, 3 resulted in a DOC sentence and 4 in a county jail sentence. It is unknown if any of these crimes involved false reporting of an imminent threat to public safety by the use of a deadly weapon, which would be classified as a misdemeanor or felony under this bill depending on the circumstances of the false report. This fiscal note assumes there will be 10 cases per year of false reporting of an imminent threat to public safety or use of a deadly weapon and that at least one of these cases will result in a sentence to DOC.

State Revenue

Beginning in FY 2018-19, this bill will increase state cash fund revenue as described below. The exact revenue impact is unknown and will depend on the number of convictions and the amount of restitution that must be paid, but is estimated to be at least \$1,000.

Criminal fines. The bill is anticipated to increase state revenue by at least \$1,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The following fine penalties may be assessed for criminal false reporting:

- \$500 to \$5,000 for a class 1 misdemeanor;
- \$1,000 to \$100,000 for a class 6 felony;
- \$2,000 to \$500,000 for a class 4 felony; and
- \$3,000 to \$750,000 for a class 3 felony.

Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined, but is estimated to be at least \$1,000 based on one class 6 felony conviction per year.

Court and administrative fees. The bill will also increase state fee revenue credited to the General Fund and to 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. Some fee revenue is shared with local governments; refer to the Local Government Impact section for additional information.

Restitution. State revenue will also increase from any restitution paid by offenders equal to the amount of state costs for any emergency response or evacuation caused by a false report.

TABOR Refund

The bill increases state revenue subject to TABOR beginning in FY 2018-19 from criminal fines and fees by at least \$1,000. Restitution is not subject to TABOR. State revenue is not currently expected to exceed the TABOR limit and no refund is required. Therefore, the bill is not expected to impact TABOR refunds. However, refunds in future years when the state next collects a TABOR surplus will be increased.

State Expenditures

Beginning in FY 2018-19, this bill increases state expenditures and workload 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 also increases state General Fund expenditures in the Department of Corrections, as discussed below.

Judicial Department. The bill is expected to result in 10 new case filings every year, which will increase workload in the trial courts. Given that a judicial officer can handle 511 criminal cases per year on average, this workload increase is considered to be minimal and can be accomplished within existing appropriations. To the extent that offenders convicted of class 1 misdemeanor false reporting are sentenced to longer probation periods than under current law, probation workload will increase to supervise them.

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 that offenders are indigent. This analysis assumes the affected offices will request any required increases in appropriations through the annual budget process.

Department of Corrections. This bill increases prison bed and parole costs for the DOC by at least \$17,714 beginning in FY 2019-20 as described below.

Prison beds. This bill is anticipated to increase state General Fund expenditures for the DOC by an estimated \$16,517 per year beginning in FY 2019-20. This analysis assumes one offender will be sentenced to prison for a class 6 felony every year and have an average length of stay of 9.0 months. The fiscal note assumes no impact will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. If impacts arise in the first year, more offenders are sentenced to DOC, or offenders are convicted of a class 3 or 4 felony instead of a class 6 felony, the DOC will request any required appropriations through the annual budget process. Table 2 shows the estimated cost of the bill over the next five fiscal years. For informational purposes, the average DOC length of stay is 33.9 months for a class 4 felony and 74.9 months for a class 3 felony.

**Table 2
 Prison Costs Under SB 18-068**

	Inmate Bed Impact	Operating Cost
FY 2018-19	-	-
FY 2019-20	0.75	\$16,517
FY 2020-21	0.75	\$16,517
FY 2021-22	0.75	\$16,517
FY 2022-23	0.75	\$16,517
Total		\$66,068

Parole. Once an offender is released from prison, he or she is assigned to parole. Table 3 shows the estimated impact on parole over the next five fiscal years assuming one offender is convicted per year of a class 6 felony for false reporting and spends 9.5 month on parole. No impact is expected until the first year's cohort of offenders is released to parole in FY 2019-20. For informational purposes, offenders convicted under this bill of a class 4 felony will spend 26.1 months on parole and 41.9 months on parole for class 3 felony convictions. Should additional appropriations be needed, they will be requested through the annual budget process.

**Table 3
 Parole Costs Under SB 18-068**

	Annualized Parole Impact	Annualized Operating Cost
FY 2018-19	-	-
FY 2019-20	0.25	\$1,197
FY 2020-21	0.79	\$3,773
FY 2021-22	0.79	\$3,773
FY 2022-23	0.79	\$3,773
Total		\$12,516

For additional information about costs in fiscal notes for bills affecting the Department of Corrections, please visit: leg.colorado.gov/fiscalnotes.

Local Government Impact

Overall, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of false reporting offenses committed and number of cases tried within its jurisdiction.

District attorneys. The bill increases workload and costs for district attorneys to prosecute any new misdemeanor offenses of false reporting.

County jails. Under current law, a court may sentence a false reporting offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months and 0 and 6 months for a class 3 misdemeanor. Under this bill, these offenders can be sentenced for a class 1 misdemeanor for a period of between 6 and 18 months. To the extent that offenders are sentenced to longer sentences, county jail costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. 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.

To the extent that offenders currently convicted of misdemeanor false reporting and sentenced to county jail under current law are instead convicted of a felony and sentenced to DOC, county jail costs will decrease.

Denver County Court. The bill results in an increase in criminal fine and court fee revenue, costs and workload for the Denver County Court to try class 1 misdemeanor false reporting cases. Probation services in the Denver County Courts may also experience an increase in revenue and workload to supervise persons convicted under the bill that may be sentenced to a longer probation term within Denver County. To the extent that Denver offenders are instead tried for felony false reporting under this bill, Denver County Court revenue, costs, and workload will decrease.

Restitution. Similar to the state, local government revenue will increase from restitution paid by offenders for the cost of any local emergency responses or building evacuations resulting from a false report. Revenue will also increase for local governments that operate public transportation systems to extent that the false report causes a facility of public transportation to be diverted from normal business.

Regional Transportation District. This bill may increase Regional Transportation District revenue from restitution paid by offenders convicted of false reporting that causes a facility of public transportation to be diverted from normal business.

Effective Date

The bill takes effect July 1, 2018, and applies to offenses committed on or after this date.

State Appropriations

This bill requires a General Fund appropriation for the five-year DOC impact identified in Table 2 and the parole impact identified in Table 3. The total five-year appropriation required is \$78,584.

State and Local Government Contacts

Corrections

District Attorneys

Judicial

Sheriffs