



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

REVISED FISCAL NOTE

(replaces fiscal note dated January 26, 2018)

Drafting Number: LLS 18-0414 Date: April 6, 2018
Prime Sponsors: Sen. Cooke Bill Status: House Appropriations
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Bill Topic: FALSE REPORTING OF AN EMERGENCY

- Summary of Fiscal Impact:
- State Revenue
- State Expenditure
- State Transfer
- TABOR Refund
- Local Government
- 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: No appropriation is required.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill, as amended by the House Judiciary Committee.

Table 1
State Fiscal Impacts under SB 18-068

Table with 4 columns: Category, Sub-category, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, Transfers, and TABOR Impact.

## **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. This bill makes it an extraordinary risk class 1 misdemeanor to falsely report an imminent threat to public safety by use of a deadly weapon, if the report causes any government agency that deals with emergencies to initiate actions to evacuate or otherwise displace the occupants of a public building, business, place of assembly, or facility of public transportation. This crime becomes a felony if:

- 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.

**False reporting to authorities.** 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). Of these convictions, 58 resulted in the offender being sentenced to county jail; however, the majority of these (39) were for providing false identification, which is processed under the same statute.

**False reporting of explosives.** Since 2015, there have been 16 convictions of false reporting of explosives (15 Male, 1 Female; 13 Caucasian, 2 Black, 1 Hispanic). Of these convictions, 3 resulted in a Department of Corrections (DOC) sentence and 4 in a county jail sentence.

**Assumption.** 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 county jail.

## **State Revenue**

Beginning in FY 2018-19, this bill will increase state cash fund revenue. 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 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. The following fine penalties may be assessed for criminal false reporting:

- \$500 to \$5,000 for a class 1 misdemeanor;
- \$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 less than \$5,000 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. This impact has not been estimated.

### **TABOR Refund**

On net, this bill increases state 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 per year while increasing General Fund and cash fund revenue by less than \$5,000 per year, resulting in a net decrease of less than \$5,000 per year 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 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. State General Fund expenditures in the Department of Corrections are potentially increased, 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.** To the extent that offenders are convicted of false reporting that results in serious bodily harm (class 4 felony) or death (class 3 felony), this bill will increase prison bed and parole costs for the DOC. 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. Offenders convicted of a class 4 felony will spend 26.1 months on parole and 41.9 months on parole for class 3 felony convictions. This analysis assumes that the DOC will request any required appropriations through the annual budget process

For additional information about costs in fiscal notes for bills affecting the Department of Corrections, please visit: [leg.colorado.gov/fiscalnotes](http://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 offenses of false reporting.

**County jails.** One new sentence for a period of between 6 and 24 months is expected per year for an extraordinary risk class 1 misdemeanor which will increase county jail costs. 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. To the extent that existing class 2 or class 3 misdemeanor offenders are instead convicted of an extraordinary risk class 1 misdemeanor, county jail costs will also 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 and Local Government Contacts**

Corrections

District Attorneys

Judicial

Sheriffs