



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-0169 Date: February 6, 2018
Prime Sponsors: Sen. Williams A. Bill Status: Senate SVMA
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Bill Topic: ELEMENTS OF THE CRIME OF HAZING

- Summary of Fiscal Impact:
State Revenue (checked)
State Expenditure (minimal) (checked)
State Transfer (unchecked)
TABOR Refund (unchecked)
Local Government (minimal) (checked)
Statutory Public Entity (unchecked)

This bill expands the criminal act of hazing, which will increase state and local government revenue, costs, and workload 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 SB 18-089

Table with 5 columns: Revenue/Expenditure/Transfers, General Fund and Cash Funds, FY 2017-18 (current year), FY 2018-19, FY 2019-20. Revenue: less than \$5,000; Expenditure: -; Transfers: -

## **Summary of Legislation**

Under current law, hazing is a class 3 misdemeanor limited to acts committed for the purpose of initiation, admission, or affiliation to a student organization. This bill expands the definition of hazing to include any willful act committed on public or private property in which a person endangers the physical, emotional, or psychological health or safety of an individual or causes bodily injury to an individual for the purposes of initiation, affiliation, or admission to any organization.

If the defendant can demonstrate through a preponderance of evidence that at the time of the offense, he or she, was also a victim of hazing and forced into the act, it is an affirmative defense to a charge of hazing.

## **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. This bill creates a new factual basis for the existing crime of hazing by extending it to all organizations and including acts committed on public or private property and those that endanger psychological or emotional health. There have been zero convictions of hazing in the last three years. By expanding the crime of hazing to include additional actions and including any organization and not just student organizations, this bill will increase the number of hazing offenses. This fiscal note estimates there will be less than ten cases per year.

## **State Revenue**

Beginning in the current year, FY 2017-18, 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. The fine penalty for a class 3 misdemeanor offense is \$50 to \$750. 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 credited to the General Fund and various cash funds by a minimal amount. 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.

## **TABOR Refund**

The bill increases state revenue from court fines and fees subject to TABOR by less than \$5,000 in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

## **State Expenditures**

Beginning in the current fiscal year FY 2017-18, this bill increases workload in the Judicial Department and for the agencies that provide representation to indigent persons. State agency workload may also increase as described below.

**Judicial Department.** This bill increases trial court workload in the Judicial Department to hear any new misdemeanor hazing cases. To the extent that offenders are convicted of hazing and sentenced to probation workload will increase. Less than ten cases per year are anticipated, therefore this increase is 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 that offenders charged with hazing are indigent. This analysis assumes the affected offices will request any required increases in appropriations through the annual budget process.

**State agencies.** Under current law, hazing applies to acts committed for the purpose of initiation, admission, or affiliation to a student organization. By expanding this to all organizations and acts committed on public and private property and including acts harming an individual's psychological or emotional health, state agency workload may increase to create policies prohibiting hazing activities and requiring the reporting of any such behavior. It is assumed that most agencies already have similar policies and that this workload can be accomplished within existing appropriations.

**Higher Education.** This bill increases workload for universities and colleges to create or update policies related to hazing. It is assumed this workload can be accomplished within existing appropriations.

## **Local Government Impact**

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

**District attorneys.** The bill increases workload and costs for district attorneys to prosecute any new hazing offenses.

**County jails.** Under current law, a court may sentence an offender to jail for a class 3 misdemeanor for a period of between 0 and 6 months. 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.

**Denver County Court.** This bill increases court fine and fee revenue, costs, and workload for Denver County Court, managed and funded by the City and County of Denver to try any new misdemeanor hazing cases. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill within Denver County.

**Local government agencies.** Similar to the state, local government agency workload may increase to create anti-hazing policies.

**School districts.** School district workload increases to update policies and procedures related to hazing to include acts committed on public or private property that may be harmful to a student's psychological or emotional health.

**Effective Date**

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

**State and Local Government Contacts**

District Attorneys	Higher Education
Human Services	Judicial