



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

**Drafting Number:** LLS 19-0040  
**Prime Sponsors:** Rep. Ransom; Singer

**Date:** February 25, 2019  
**Bill Status:** House Public Health  
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**Bill Topic:** SAFE FAMILY OPTION FOR PARENTS

**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 allows a nonprofit organization that assists a parent or guardian with the process of providing temporary care for a minor to operate a temporary care assistance program. The bill will increase state and local revenue and expenditures on an ongoing basis.

**Appropriation Summary:** For FY 2019-20, the bill requires an appropriation of \$52,058 to the Department of Human Services.

**Fiscal Note Status:** The fiscal note reflects the introduced bill.

**Table 1  
State Fiscal Impacts Under HB 19-1142**

		FY 2019-20	FY 2020-21
<b>Revenue</b>	Cash Funds	up to \$22,350	up to \$22,350
	<b>Total</b>	<b>up to \$22,350</b>	<b>up to \$22,350</b>
<b>Expenditures</b>	General Fund	\$52,058	\$56,789
	Centrally Appropriated	\$10,441	\$12,176
	<b>Total</b>	<b>\$62,499</b>	<b>68,967</b>
	<b>Total FTE</b>	<b>0.7 FTE</b>	<b>0.8 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>	General Fund	up to \$18,975	-

## **Summary of Legislation**

This bill allows a nonprofit organization that assists a parent or guardian with the process of providing temporary care for a minor to operate a temporary care assistance program. Such an organization is not considered to be a child care center or a child placement agency. However, the organization may operate a child care center or child placement agency in addition to providing an assistance program.

**Temporary care assistance program.** Under the bill, a temporary care assistance program is a program that assists a parent or guardian in identifying an appropriate and safe approved temporary caregiver who the parent or guardian can delegate temporary care and responsibility to for no more than six months. During that time, the parent or guardian has the authority to revoke the delegation of care and the minor must be returned as soon as reasonably possible. Placement in a temporary care program does not change parental or legal rights; constitute child abuse or neglect; or result in a child being neglected unless the parent or guardian fails to make contact within 72 hours after the expiration of the power of attorney.

**Temporary caregivers.** The bill establishes requirements on who can be a temporary caregiver. The bill mandates that a qualified nonprofit organization conduct a fingerprint criminal history background check; child abuse and neglect background check; and a sex offender background check on all applicants and on anyone who resides in the applicant's home who is at least 18 years old. The qualified nonprofit is responsible for the costs of performing this background check and maintaining records. Finally, the qualified nonprofit must train an approved temporary caregiver in the rights, duties, and limitations associated with providing temporary care for a minor.

**Investigation.** The bill allows the Department of Human Services (DHS) to investigate a temporary care assistance program to ensure that the program is complying with the bill's requirements. For each violation, the DHS may assess a civil penalty of \$1,000 which will be credited to the Child Care Cash Fund.

**Mandatory reporter.** Finally, the bill makes an employee of a qualified nonprofit organization a mandatory reporter.

## **Comparable Crime Analysis**

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 an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

**Prior conviction data.** This bill adds an employee of a qualified nonprofit organization operating a temporary care assistance program to the list of mandatory reporters. A failure to report child abuse under current law is a class 3 misdemeanor offense. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failing to report child abuse as a comparable crime. In the last three fiscal years, 7 persons have been convicted and sentenced for this existing offense. Of the persons convicted, 6 were male and 1 did not have a gender identified. Demographically, 6 were White and 1 did not have a race identified. Of these cases, only 3 were sentenced to county jail.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

**Assumptions**

The fiscal note assumes fewer than five qualified nonprofit organizations will be licensed to run a temporary care assistance program and that fewer than 300 background checks will be conducted per year. In addition, the fiscal note assumes that employees of temporary care assistance programs will comply with the bill. Based on the low number of convictions, this analysis assumes that there will be a minimal increase in criminal case filings per year and sentences to county jail will be minimal.

**State Revenue**

The bill will increase cash fund revenue to the Department of Public Safety (DPS) and the DHS by up to \$22,350 per year to perform up to 300 background checks per year on applicants for temporary caregivers, and any family member of the temporary caregiver over the age of 18. Revenue may also increase to the Judicial Department by a minimal amount. Revenue is shown in Table 2 and discussed below.

**Fee impact on HB19-1142.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DPS and DHS based on cash fund balance, estimated program costs, and the estimated number of background checks subject to the fee. The table below identifies the fee impact of this bill and each impact is described below.

*Fingerprint-based background checks (DPS).* This bill increases state cash fund revenue from fingerprint-based criminal history background checks, which includes a sex offender background check, to the Colorado Bureau of Investigation Identification Unit Cash Fund in the DPS by less than \$11,850 per year starting in FY 2019-20, of which \$8,475 is retained by the DPS and \$3,375 is passed through to the Federal Bureau of Investigation (FBI). The current fee for background checks is \$39.50, which includes \$11.25 for the FBI fingerprint based check. This fee revenue is subject to TABOR, except that the federal portion of this fee.

*Child abuse and neglect background checks (DHS).* This bill increases state cash fund revenue from child abuse and neglect background checks to the Records and Reports Cash Fund in the DHS by less than \$10,500 per year starting in FY 2019-20. The current fee for a child abuse and neglect background check is \$35. This fee revenue is subject to the state TABOR limit.

**Table 2**  
**Fee Impact on Temporary Caregivers**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2019-20</b>	Fingerprint Background Check	\$39.50	up to 300	up to \$11,850
	Child Abuse and Neglect Check	\$35.00	up to 300	up to \$10,500
<b>FY 2019-20 Total</b>				<b>up to \$22,350</b>
<b>FY 2020-21</b>	Fingerprint Background Check	\$39.50	up to 300	up to \$11,850
	Child Abuse and Neglect Check	\$35.00	up to 300	up to \$10,500
<b>FY 2020-21 Total</b>				<b>up to \$22,350</b>

**Civil penalties.** To the extent that there are more civil penalties assessed by the DHS, revenue to the DHS will increase. It is assumed that qualified nonprofit organizations will comply with the bill so any increase in revenue is expected to be minimal.

**Criminal fines and court fees.** By adding an employee of a qualified nonprofit organization running a temporary care assistance program to the list of mandatory reporters, the bill may increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 3 misdemeanor offense is \$50 to \$750. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

### **State Expenditures**

This bill increases state expenditures in the DHS by \$62,499 and 0.7 FTE in FY 2019-20 and by \$68,965 and 0.8 FTE in FY 2020-21, and increases workload to the DPS. These impacts are summarized in Table 3 and discussed below.

**Table 3**  
**Expenditures Under HB 19-1142**

	<b>FY 2019-20</b>	<b>FY 2020-21</b>
<b>Department of Human Services</b>		
Personal Services	\$46,690	\$56,029
Operating Expenses and Capital Outlay Costs	\$5,368	\$760
Centrally Appropriated Costs*	\$10,441	\$12,176
<b>Total Cost</b>	<b>\$62,499</b>	<b>\$68,965</b>
<b>Total FTE</b>	<b>0.7 FTE</b>	<b>0.8 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Department of Human Services.** The DHS requires 0.8 FTE for a social services specialist to draft rules for a new licencing category, process licensing applications, conduct annual licensing visits, investigate complaints, and provide technical assistance to qualified nonprofit organizations. For FY 2019-20, FTE and costs are prorated to reflect the General Fund payday shift and an August start date. Workload will also increase in the DHS to process additional child abuse background checks. Assuming less than 300 checks per year, the fiscal note assumes this workload can be accomplished within existing appropriations.

**Department of Public Safety.** The bill will increase workload to the DPS starting in FY 2019-20, to process more fingerprint background checks. Based on the assumed number of background checks, the fiscal note assumes the increase in workload can be handled within existing appropriations.

**Judicial branch agencies that represent indigent children and parents.** To the extent that any authorized agreements convert into a child welfare case, workload for these agencies will also increase. It is assumed that the increase in workload can be handled within existing appropriation.

**Judicial Department.** This bill may increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. To the extent that offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

**TABOR refunds.** The bill is expected to increase state General Fund obligations for TABOR refunds by up to \$18,975 in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$10,441 in FY 2019-20 and \$12,176 in FY 2020-21.

## Local Government

Beginning in FY 2019-20, 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 offenses committed within its jurisdiction.

**District attorneys.** By adding employees of a qualified non-profit organizations operating a temporary care assistance program to the list of mandatory reports, the bill will increase costs and workload for district attorneys to prosecute any new failure to report offenses. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

**County jails.** Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

**County departments of human services.** To the extent that any authorized agreements convert into a child welfare case, workload for county department of human services will increase. It is assumed that the increase in workload will be minimal.

**Denver County Court.** The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

## Effective Date

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

## State Appropriations

For the FY 2019-20, the bill requires a General Fund appropriation of \$52,058 and an allocation of 0.7 FTE to the Department of Human Services.

## Departmental Difference

The DHS estimates that the bill increases costs by \$180,613 in FY 2018-19 and \$200,404 in FY 2019-20 and will require 2.4 FTE. The DHS base these costs on 40 qualified nonprofit organizations being licensed. The fiscal note assumes that less than five qualified nonprofit organizations will be licensed to operate a temporary care assistance program and thus indicates fewer FTE and lower costs than the DHS.

## State and Local Government Contacts

Counties	District Attorneys	Human Services	Information Technology
Judicial	Law	Military Affairs	Public Safety