



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

SB 19-172

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 19, 2019)

Drafting Number: LLS 19-0863
Prime Sponsors: Sen. Danielson; Ginal
Rep. Singer

Date: April 9, 2019
Bill Status: Senate Appropriations
Fiscal Analyst: Aaron Carpenter | 303-866-4918
Aaron.Carpenter@state.co.us

Bill Topic: PROTECT FROM UNLAWFUL ABANDONMENT AND CONFINEMENT

Summary of Fiscal Impact:

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

The bill creates offenses for the unlawful abandonment or confinement of an at-risk person. The bill increases state and local revenue and expenditures on an ongoing basis and requires a one-time General Fund transfer.

Appropriation Summary: For FY 2019-20, the bill requires a five-year appropriation of \$138,774 to the Department of Corrections.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the Senate Health and Human Services Committee.

**Table 1
State Fiscal Impacts Under SB 19-172**

		FY 2019-20	FY 2020-21
Revenue		-	-
Expenditure	General Fund	-	\$26,220
Transfer	General Fund	(\$110,652)	-
	Cash Funds	\$110,652	-
	Total	\$0	-
TABOR Refund		-	-

Summary of Legislation

Under current law, a person who commits caretaker neglect against an at-risk person commits a class 1 misdemeanor. This bill expands crimes against an at-risk person by creating new offenses for unlawfully abandoning or confining an at-risk person. Unlawfully abandoning an at-risk adult is a class 1 misdemeanor, while confining an at-risk person is a class 6 felony.

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 creates two new crimes against at-risk persons. To form an estimate on the prevalence of these crimes, the fiscal note analyzed the existing offense of caretaker neglect and used false imprisonment as a comparable crime for abandoning or confining an at-risk person.

Caretaker neglect. In the last three fiscal years, 31 persons have been convicted and sentenced for this offense. Of the persons convicted, 16 were male and 15 were female. Demographically, 22 were White, 3 were African American, 4 were Hispanic, 1 was Asian, and 1 was classified as "Other". Of those convicted, 8 were sentenced to county jail.

False imprisonment. Under current law, the classification of false imprisonment ranges from a class 2 misdemeanor up to a class 5 felony, depending on the circumstances of the offense. In the last three fiscal years, 242 persons have been convicted and sentenced for this offense, including 28 persons sentenced for a felony offense and 214 persons sentenced for a misdemeanor. Of the persons convicted, 225 were male and 17 were female. Demographically, 212 were White, 9 were African American, 15 were Hispanic, 3 was American Indian, and 3 were classified as "Other". Of the 28 felonies, 17 were sentenced to the Department of Corrections (DOC). Of the 214 sentenced for a misdemeanor, 111 were sentenced to county jail.

Assumptions. This analysis assumes that there will be approximately 1 additional criminal case filing per year for the new offenses under the bill. In addition, the fiscal note assumes that 1 offender every five years will be sentenced to the DOC for unlawful confining of an at-risk person. The average DOC length of stay for a class 6 felony is 7.4 months with an average parole length of stay of 9.6 months once he or she is released from prison. A class 1 misdemeanor has a sentencing range of 6 months to 18 months in county jail.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Starting in FY 2019-20, state revenue from criminal fines and court fees will increase by a minimal amount 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 6 felony ranges from \$1,000 to \$100,000 and a class 1 misdemeanor has a fine range of \$500 to \$5,000. 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, however, under the March 2019 Legislative Council Staff forecast, a TABOR surplus is not expected in FY 2019-20 or FY 2020-21.

State Transfers

This bill requires a one-time transfer of \$110,652 from the General Fund to the Capital Construction Fund in FY 2019-20. These funds must then be appropriated to the Corrections Expansion Reserve Fund. This amount is based on the costs required to cover future DOC capital construction for 0.6 additional beds (\$178,471 per bed) and may be used by the DOC for prison construction, expansion, or renovation projects that are approved by the General Assembly. DOC capital construction costs from the projected increase in prison population under this bill are discussed in the State Expenditure section.

State Expenditures

Beginning in FY 2019-20, this bill increases costs and workload in the Judicial Department. This bill also increases the five-year expenditures to the DOC by \$138,030. These impacts are shown in Table 2 and discussed below.

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. 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 Counsel. To the extent that offenders are sentenced to DOC instead of probation, costs and workload in the Division of Probation will decrease. 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.

Department of Corrections - Five-year fiscal impact. Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating, capital construction, and parole costs for the DOC by a total of \$138,030 over the five-year period beginning in FY2019-20. This five-year impact includes the potential expenditure on DOC capital construction resulting from the transfer discussed above. The fiscal note assumes no prison impact will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Once an offender is released from prison, he or she is assigned to parole; however, no impact is expected until the first year's cohort of offenders is released to parole. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2
 Prison and Parole Costs Under SB19-172**

Fiscal Year	Prison Bed Impact			Parole Impact		Total Cost
	Number	Operating Cost	Construction Cost*	Number	Operating Cost	
FY 2019-20	0.6	-	\$110,652	-	-	\$110,652
FY 2020-21	0.6	\$24,449	-	0.4	\$1,771	\$26,220
FY 2021-22	0	-	-	0.4	\$1,902	\$1,902
FY 2022-23	0	-	-	0	-	\$0
FY 2023-24	0	-	-	0	-	\$0
Total Cost		\$24,449	\$110,652		\$3,673	\$138,774

**Capital construction cost is based on the highest bed impact in the five-year period.*

Local Government Impact

Beginning in FY 2019-20, this bill is expected to increase local government 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 creating new crimes against at-risk persons, the bill will increase costs and workload for district attorneys to prosecute these case. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. By adding a new misdemeanor offense, more offenders may be sentenced to county jail. To the extent that this occurs, costs to county jails will increase. In addition, because class 6 felony offenders may still be sentenced to county jail, costs may also increase for offenders sentenced for unlawful confinement of an at-risk person. 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.

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 hear additional cases for abandoning an at-risk adult. Probation services in the Denver County Courts will also experience an increase in revenue, costs, and workload revenue to no longer supervise persons convicted under the bill for a felony offense within Denver County.

County departments of human services. To the extent that the bill results in more investigations by county adult protective services, costs and workload to that county will increase. The fiscal note assumes that any increase in costs and workload will be minimal.

Effective Date

The bill takes effect July 1, 2019 and applies to any offense committed on or after this date.

State Appropriations

The Department of Corrections requires a total five-year appropriation of \$138,774, as shown in Table 2. Specifically, the Department of Corrections requires the following transfers and appropriations:

- a transfer of \$110,652 from the General Fund to the Capital Construction Fund;
- an appropriation of \$110,652 from the Capital Construction Fund to the Corrections Expansion Reserve Fund for capital construction costs; and
- a five-year General Fund appropriation of \$28,122 for operating and parole impacts.

State and Local Government Contacts

Corrections Judicial	Counties Sheriffs	District Attorneys Human Services	Health Care Policy And Financing Information Technology
-------------------------	----------------------	--------------------------------------	--