



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 20-0598 Date: January 24, 2020
Prime Sponsors: Sen. Winter Bill Status: Senate Agriculture
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Bill Topic: ENHANCE PENALTIES WATER QUALITY CRIMINAL VIOLATIONS

Summary of Fiscal Impact:
State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity

This bill increases criminal penalties for the pollution of state waters and gives jurisdiction in these matters to district attorneys and the Attorney General upon complaint. The bill may increase state and local revenue and expenditures beginning in FY 2020-21.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill increases criminal penalties for the pollution of state waters and gives jurisdiction in these matters to district attorneys and the Attorney General, as summarized further below.

Criminal pollution. The bill increases penalties on a person who commits criminal pollution of state waters as follows. For a violation committed:

- with criminal negligence or recklessly, the violator is guilty of an unclassified misdemeanor punishable by a maximum fine of \$25,000 per day for each day the violation occurs, imprisonment of up to 1 year, or both—increased from the current maximum daily fine of \$12,500; and
knowingly or intentionally, the violator is guilty of a class 5 felony punishable by a maximum fine of \$50,000 per day for each day the violation occurs, imprisonment of up to 3 years, or both—increased from the current daily maximum fine of \$25,000.

Falsification and tampering. Under current law, a person who knowingly makes any false representation in a required record or who knowingly renders inaccurate any required water quality monitoring device or method commits a misdemeanor with a maximum fine of \$10,000, imprisonment in the county jail for not more than 6 months, or both. Under the bill, this offense and penalty are increased to a class 5 felony punishable by a maximum fine of \$100,000, imprisonment from a minimum of 1 year to a maximum of 3 years with a mandatory 2-year parole period. If a person commits two separate offenses in two separate occurrences within a period of two years, the maximum fine and imprisonment for the second offense are double the default amounts.

District Attorney and Attorney General jurisdiction. The bill requires prosecution under these statutes to be commenced upon request, by either the Colorado Department of Public Health and Environment or a peace officer, to either the Attorney General or district attorney in the district where the alleged violation occurred.

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. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill reclassifies the existing fine penalties for offenses of criminal water pollution and falsification or tampering of water records or devices to an unclassified misdemeanor or a class 5 felony. In the past 10 years, there have been 3 prosecutions under these statutes. Demographic data is unknown.

State Revenue and Expenditures

This analysis assumes that there will be a minimal increase in criminal case filings as a result of the bill, some of which may be prosecuted by the Attorney General. Any increase in fines credited to the General Fund, court fees, and the related TABOR impact is expected to be minimal. Similarly, potential workload increases for the Department of Law, the Judicial Department, the Division of Probation, agencies that provide representation to indigent persons, and the Department of Corrections require no change in appropriations. If there are more cases than anticipated by this fiscal note, these costs will be addressed through the annual budget process. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Local Government

Similar to the state, it is expected that any workload or cost increase for district attorneys to prosecute offenses subject to the new penalties created by the bill will be minimal. Similarly, the impact on county jails is expected to be minimal.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. It applies to offenses committed on or after the effective date.

State and Local Government Contacts

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| Corrections | Counties | District Attorneys |
| Information Technology | Judicial | Law |
| Natural Resources | Public Health and Environment | Public Safety |
| Sheriffs | | |