



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**SB 20-221**

# FINAL FISCAL NOTE

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|-------------------------|---|------------------------|---|
| <b>Drafting Number:</b> | LLS 20-1324                             | <b>Date:</b>           | September 21, 2020  |
| <b>Prime Sponsors:</b>  | Sen. Moreno; Tate<br>Rep. Titone; Soper | <b>Bill Status:</b>    | Signed into Law   |
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**Bill Topic:** **GAY PANIC OR TRANSGENDER PANIC DEFENSE**

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| <b>Summary of Fiscal Impact:</b> | <input type="checkbox"/> State Revenue                | <input 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     |

The bill eliminates the discovery of a victim's sexual orientation or gender identity as a defense in criminal cases and creates a hearing if a party claims that the evidence is relevant and wants to use it in a criminal case. Beginning in FY 2020-21, the bill will increase state and local workloads on an ongoing basis and may impact sentencing-related costs.

**Appropriation Summary:** No appropriation is required.

**Fiscal Note Status:** This fiscal note reflects the enacted bill.

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## Summary of Legislation

The bill states that certain evidence related to a victim's sexual orientation or gender identity is irrelevant in a criminal case, and creates a protective hearing if a party claims that such evidence is relevant and wants to use it in a criminal case.

Specifically, evidence relating to the discovery of, knowledge about, or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted non-forcible romantic or sexual advance toward the defendant, or if the defendant and victim are or have been involved in an intimate relationship, is irrelevant. An act following such discovery does not constitute an act committed in the sudden heat of passion in a criminal case.

## State Expenditures

Beginning in FY 2020-21, this bill increases workload in the Judicial Department and agencies that provide representation to indigent persons. Additionally, the bill may impact sentencing, which affects the Department of Corrections and the Division of Probation.

- *Trial courts.* The bill will minimally increase workload for trial courts in the Judicial Department. The bill creates a new process regarding court review of an evidentiary motion, which may require an in-camera hearing under certain circumstances. The bill also requires all motions and supporting documents filed to be under seal, which may increase redaction workload when a court determines that only part of the evidence contained in the motion is admissible. In both cases, it is assumed that cases affected by the bill will be limited given the specific circumstances and the workload increase can be accomplished within existing appropriations.
- *Independent agencies in the Judicial Department.* Workload may 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 these agencies due to caseload, this will be addressed through the annual budget process.
- *Sentencing impacts.* The bill eliminates a potential defense, which may result in higher level felony convictions. To the extent this occurs, this may result in an increase in time served, which would increase costs for the Department of Corrections and reduce or delay costs for the Division of Probation. Additionally, the bill's expanded protection order violations may increase probationary periods. Should a change in funding be required for these agencies due to caseload, this will be addressed through the annual budget process.

## **Local Government**

Workload may minimally increase for district attorneys to the extent the additional hearing under the bill impacts a case, and a higher level conviction may result in a minimal offset to county jails.

## **Effective Date**

This bill was signed into law by the Governor and took effect on July 13, 2020.

## **State and Local Government Contacts**

District Attorneys

Judicial

Law