



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number:	LLS 21-0217	Date:	June 23, 2021
Prime Sponsors:	Rep. Michaelson Jenet; Larson Sen. Fields; Smallwood	Bill Status:	Signed into Law
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Bill Topic: CAPS CHECKS FOR SUBSTANTIATED MISTREATMENT OF ADULT

Summary of Fiscal Impact:

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

The bill requires information sharing between state and local departments regarding regulated professionals with substantiated cases of mistreatment of an at-risk adult. It requires that prospective conservators or guardians to an at-risk adult have a CAPS check. The bill will minimally increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

This bill requires information sharing between the Department of Human Services (DHS), county departments of human services, and the Department of Regulatory Agencies (DORA) if a regulated professional was found to have a substantiated case of mistreatment of an at-risk adult in the course of their professional duties. As part of this information sharing, DORA must provide the professional license number of the person under investigation to county departments of human services. In addition, the DHS must share certain appeal information with DORA, upon request. Starting January 1, 2022, the DHS must notify DORA within ten days if a professional has been found to have a substantiated case of mistreatment. The DHS must also disclose to DORA the date by which an appeal may be initiated.

The bill also requires courts to request Colorado Adult Protective Services (CAPS) data system checks from the DHS before a court appoints a conservator or guardian to an at-risk adult. The courts may require the applicant to pay for the CAPS check. The DHS must provide notification of a substantiated finding and information concerning the mistreatment within seven calendar days. In addition, the DHS must disclose to the court that the person has the right to appeal and the date by which an appeal must be initiated.

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 changes the element of the existing offenses of requesting a CAPS check by an authorized person and providing false information on a CAPS check to include prospective conservators and guardians. From FY 2017-18 to FY 2019-20, zero offenders have been convicted and sentenced for either offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

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

State Revenue

Starting in FY 2021-22, state revenue to the Records and Reports Cash Fund in the DHS will increase from CAPS check fees from potential conservators or guardians. The fiscal note assumes that the increase in revenue will be minimal. This revenue is subject to TABOR.

State Expenditures

Starting in FY 2021-22, the bill will increase workload in the DHS, the Judicial Department, and DORA as described below.

Department of Human Services. The bill will increase workload in the DHS to:

- promulgate rules;
- conduct additional CAPS checks;
- share findings and other required information with DORA and the courts;
- train county staff on the new requirements;
- make changes to the CAPS data system; and
- redact any information from appeals that cannot be released due to privacy concerns

These workload increases can be accomplished within existing appropriations.

Judicial Department. The bill will increase workload in the trial courts to the extent CAPS checks lead to more contested hearings concerning the appointment of a conservator or guardian. In addition, the bill will increase administrative work concerning CAPS check fee payment, uploading documents, and setting additional hearing dates. The increased workload can be accomplished within existing appropriations. Finally the bill may increase expenditures to the extent a judge orders the department to cover the cost of a CAPS check. Because it is unknown when a judge will order the

department to pay the CAPS fee, the fiscal note assumes any additional resources will be requested through the annual budget process. For informational purposes, in FY 2018-19, there were 1,652 guardian and conservatorship cases. If the department paid the \$9 fee in all of these cases, expenditures would increase by \$14,868.

Department of Regulatory Agencies. The bill will increase workload in DORA to hold any hearings related to a complaint associated with a substantiated case of mistreatment; to conduct any outreach and education; and update rules. This workload increase can be accomplished within existing appropriations.

TABOR refunds. The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Effective Date

The bill was signed into law by the Governor on May 7, 2021, and takes effect on September 7, 2021, assuming no referendum petition is filed.

State and Local Government Contacts

Counties	District Attorneys
Human Services	Information Technology
Judicial	Office of Public Guardianship
Regulatory Agencies	