



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Fiscal Note

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<b>Drafting Number:</b>	LLS 21-1027	<b>Date:</b>	May 22, 2021
<b>Prime Sponsors:</b>	Sen. Fields; Cooke Rep. Weissman; Soper	<b>Bill Status:</b>	Senate SVMA
		<b>Fiscal Analyst:</b>	Sonia Hatfield   303-866-5851 Sonia.Hatfield@state.co.us

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**Bill Topic:**                   **BIAS-MOTIVATED CRIMES**

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<b>Summary of Fiscal Impact:</b>	<input checked="" 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

This bill clarifies that specified bias-motivated crimes need only be partially motivated by bias to be categorized as a bias-motivated crime. Beginning in FY 2021-22, the bill may minimally increase state revenue and expenditures on an ongoing basis.

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**Appropriation Summary:**                   Currently, this bill includes a provision stating that a potential appropriation to the Department of Corrections may be required; however, the fiscal note estimates that the bill will not increase periods of imprisonment and that no appropriation is required.

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

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## Summary of Legislation

The bill clarifies that for harassment that is bias-motivated or a bias-motivated crime, the bias motivation only needs to be part of the defendant's motivation in committing the crime. The bill also makes the crime of harassment when the harassment is bias-motivated a Victim Right Act (VRA) crime, which provides a victim certain statutory rights.

## 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.

**Harassment.** This bill clarifies that the existing offenses of harassment with bias-motivation. From 2018 to 2020, 15,602 offenders were convicted and sentenced of any form of harassment. Of the persons convicted, 11,734 were male and 3,857 female, and 13,039 were white, 1,159 black, 895 Hispanic, 109 Asian, 186 indigenous, and 214 other. Of the total number of harassment

convictions, about 10 to 15 per year were convicted and sentenced for bias-motivated harassment. The fiscal note assumes that most bias-related crimes are already being prosecuted under that sentencing category, and that the number of additional harassment cases that will be sentenced under the bias-motivated harassment provision will be minimal.

**Bias Motivated Crime.** This bill clarifies that the existing offense of a bias-motivated crime includes intent that is partially motivated by bias. From 2018 to 2020, 73 offenders have been sentenced and convicted for this existing offense. Of the persons convicted, 65 were male and 8 female, and 67 were white, 3 black, 1 Asian and 2 other. Of these, one offender was sentenced to the Department of Corrections.

**Assumption.** As this bill clarifies that partial motivation classifies as a bias-motivated crime, the fiscal note assumes that most crimes are already being prosecuted and that there will be minimal or no additional criminal case filings or convictions under the bill.

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

## **State Revenue and Expenditures**

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. The bill may increase the number of harassment misdemeanors that would be prosecuted as a first-class misdemeanor instead of a third-class misdemeanor by expanding when harassment is classified as bias-motivated. In addition, the bill adds a new offense to the VRA, which means the Division of Probation will have to issue additional notifications to a larger population of victims. Any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Corrections, are assumed to be minimal and no change in appropriations is required.

**TABOR refunds.** The bill minimally 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 minimally 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>.

## **Local Government**

Similar to the state, it is expected that any workload or cost increase for district attorneys will be minimal. 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. For the current fiscal year, the state reimburses county jails at a daily rate of \$57.97.

**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.

## **State Appropriations**

Currently, this bill includes a provision stating that a potential appropriation to the Department of Corrections may be required; however, the fiscal note estimates that the bill will not increase periods of imprisonment and that no appropriation is required.

## **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

## **State and Local Government Contacts**

Counties

District Attorneys

Judicial