



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

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| Drafting Number: | LLS 22-0358 | Date: | July 25, 2022 |
| Prime Sponsors: | Rep. Tipper; Soper Sen. Gonzales | Bill Status: | Signed into Law |
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Bill Topic: PUBLIC BENEFITS THEFT

Summary of Fiscal Impact:

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| <input checked="" type="checkbox"/> State Revenue | <input checked="" 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 creates specific elements for public benefit theft in the theft statute. It may increase state and local workload and state revenue beginning in FY 2022-23.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

The bill creates specific elements for public benefits theft in the theft statute. A person commits public benefits theft when a person intentionally misrepresents or withholds a material fact for determining eligibility, and does so for the purpose of obtaining or retaining public benefits for which the person is not eligible. A person's conduct that is limited to the elements of public benefits theft is not subject to prosecution pursuant to any other provision of the theft statute.

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 creates a new factual basis for 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 resulting from the bill.

Prior conviction data. This bill creates a new factual basis for the existing offense of theft by defining public benefit theft. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of fraudulent acts to obtain food stamps or an electronic benefits transfer card as a comparable crime. From FY 2018-19 to FY 2020-21, 23 individuals have been convicted and sentenced for this offense. Of the persons convicted, 4 were male, 18 were female, and 1 did not have a gender identified. Demographically, 18 were White, 1 was Black/African American, and 4 were classified as "Other."

Assumptions. While the bill expands a definition of theft in the criminal code, it also places restrictions on how to prosecute the crime. Given that this type of theft can potentially be prosecuted under current law, the fiscal note assumes a minimal increase in filings from adding the more specific offense within the theft statute. In addition, restricting prosecution under the theft statute may reduce the length of sentences to county jails and the Department of Corrections. Based on the low number of persons convicted for the comparable crime, the fiscal note assumes that any impact from sentencing changes will be minimal.

State Revenue and Expenditures

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue and expenditures.

Judicial Department. Criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount. Similarly, 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 are assumed to be minimal and no change in appropriations is required.

Agencies providing public benefits. State agencies that provide public benefits—including the Department of Human Services, Department of Health Care Policy and Financing, and the Department of Labor and Employment—may have additional workload to update policies and procedures concerning public benefit theft. However, the bill is not expected to significantly affect the number or types of cases referred for prosecution or impact existing fraud prevention activities in these departments. No change in appropriations is required for these agencies.

Local Government

District attorneys and county jails. It is expected that any workload or cost impacts for district attorneys or county jails will be minimal. District attorney offices and county jails are funded by counties.

Effective Date

The bill was signed into law by the Governor on April 21, 2022, and it took effect July 1, 2022. It applies to offenses committed after this date.

State and Local Government Contacts

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| Counties | Education | Health Care Policy and Financing |
| Higher Education | Human Services | Information Technology |
| Judicial | Labor | Law |
| Municipalities | Public Health | |