



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1073: PROTECTIONS AGAINST CHILD RAPE

Prime Sponsors:

Rep. Bradley; English

Fiscal Analyst:

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Fiscal note status: This fiscal note reflects the introduced bill.

Summary Information

Overview. The bill mandates an indeterminate sentence to the Department of Corrections for offenders who commit certain sex assault crimes on a child.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- TABOR Refunds
- Local Government

Appropriations. For FY 2025-26, the bill requires a reduction in appropriations from the Judicial Department of \$228,834.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	-\$94,185	-\$153,387
State Expenditures	-\$290,237	\$1,355,166
Transferred Funds	\$0	\$0
Change in TABOR Refunds	-\$94,185	-\$153,387
Change in State FTE	-3.3 FTE	-4.0 FTE

¹ Funds sources for these impacts are shown in the tables below.

Table 1A
State Revenue

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	\$0	\$0
Cash Funds	-\$94,185	-\$153,387
Total Revenue	-\$94,185	-\$153,387

Table 1B
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27
General Fund	-\$228,834	\$1,429,639
Cash Funds	\$0	\$0
Federal Funds	\$0	\$0
Centrally Appropriated	-\$61,403	-\$74,473
Total Expenditures	-\$290,237	\$1,355,166
Total FTE	-3.3 FTE	-4.0 FTE

Summary of Legislation

The bill requires the court to sentence a person to the Department of Corrections (DOC) for an indeterminate sentence for the following crimes:

- Class 3 felony of sexual assault on a child by one in a position of trust;
- Class 4 felony of sexual assault on a child by one in a position of trust; and
- Class 4 felony of sexual assault on a child.

An indeterminate term of incarceration is between the minimum of the presumptive range for the crime class, and up to a maximum of the person's natural life.

Background

When a defendant receives an indeterminate sentence, the offender does not have an end date to their sentence. Instead, the court determines a minimum sentence the individual must serve in prison. After that, the Parole Board determines whether the offender may be released to parole. There is no mandatory release date for an indeterminate sentence.

Comparable Crime Analysis

Legislative Council Staff (LCS) 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 section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior Conviction Data

This bill requires an indeterminate DOC sentence for three crimes involving sexual assault on a child. The section below provides the number of individuals sentenced for those three crimes and the demographic statistics associated with each crime.

Sexual Assault on a Child by One in a Position of Trust (Felony 3)

From FY 2021-22 to FY 2023-24, 196 individuals have been convicted and sentenced for this offense. Of the persons convicted, 193 were male, and 3 were female. Demographically, 168 were White, 9 were Black/African American, 14 were Hispanic, 2 were Asian, 2 were classified as "Other," and 1 did not have a race identified.

Sexual Assault on a Child by one in a Position of Trust (Felony 4)

From FY 2021-22 to FY 2023-24, 87 have been convicted and sentenced for this offense. Of the persons convicted, 83 were male, and 4 were female. Demographically, 62 were White, 9 were Black/African American, 12 were Hispanic, 1 was Asian, and 3 were classified as "Other."

Sexual Assault on a Child (Felony 4)

From FY 2021-22 to FY 2023-24, 228 have been convicted and sentenced for this offense. Of the persons convicted, 224 were male, 4 were female. Demographically, 151 were White, 34 were Black/African American, 32 were Hispanic, 4 were Asian, 1 was American Indian, and 6 were classified as "Other".

Assumptions

This bill will increase incarceration in two ways. First, by mandating DOC sentences, there will no longer be any individuals that do not receive a DOC sentence for these crimes. Second, by mandating an indeterminate sentence, there will be a potential increase in the time served in DOC for these offenders.

Mandated DOC Sentence

Based on a LCS analysis of Judicial sentencing data, currently around 69 individuals per year are not sentenced to the DOC for the above crimes. Based on that number, it is assumed that 69 individuals will be sentenced to the DOC instead of probation.

Longer DOC Stays

Based on a LCS analysis of Judicial sentencing data, the vast majority of offenders sentenced to the DOC for the above crimes already receive indeterminate sentences. LCS identified about 7 cases per year for the class 4 felonies and 3 cases per year for the class 3 felony that were not identified as having an indeterminate sentence.

According to the February 2023 Division of Criminal Justice DOC projection, the average length of stay is 80 months for a class 3 felony and 30 months for a class 4 felony. For an indeterminate sex offender sentence, the average length of stay is 86 months for a class 3 felony and 30 months for a class 4 felony.

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

State Revenue

The bill reduces revenue to the Offender Surcharge Cash Fund by \$94,185 in FY 2025-26 and \$153,387 in FY 2026-27, due to individuals being sentenced to the DOC in lieu of probation. Currently, offenders sentenced to probation pay a \$50 supervision surcharge, which is assessed as one lump sum upon sentencing. The amounts listed above take into account current indigency rates and collection rates of the department.

State Expenditures

The bill decreases state expenditures by \$211,000 in FY 2025-26, and increases state expenditures by \$1.5 million in FY 2026-27 and by more in future fiscal years. These costs will be incurred in the Judicial Department and the Department of Corrections as shown in Tables 2 to 2B and described in the sections below. Costs are paid from the General Fund.

Table 2
State Expenditures
All Departments

Department	Budget Year FY 2025-26	Out Year FY 2026-27
Judicial Department	-\$290,237	-\$353,636
Department of Corrections	\$0	\$1,708,802
Total Costs	-\$290,237	\$1,355,166

Judicial Department

The bill decreases expenditures in the Judicial Department by \$290,000 in FY 2025-26 and \$356,000 in FY 2026-27 within the Division of Probation. In addition, the bill also increases workload to the trial courts, and agencies that represent indigent clients as described below.

Probation

Based on the assumed number of individuals sentenced to probation under current law and who will be sentenced to the DOC under the bill and based on current case standards for a probation officer, the division will see a reduction of 3.3 FTE. This includes 2.9 probation officers, 0.5 supervisor, and 0.6 support staff. Cost reductions are prorated for a September 1 start date.

Trial Courts and Independent Agencies that Represent Indigent Clients

To the extent the bill increases the amount of time to litigate cases, due to the fact offenders must be sentenced to the DOC and less likely to take a plea deal, workload to the trial courts and offices that represent indigent clients (public defenders and the Office of Alternate Defense Counsel) will increase. The fiscal note assumes that these cases already experience rigorous litigation and any increase will be minimal.

Table 2A
State Expenditures
Judicial Department

Cost Component	Budget Year FY 2024-25	Out Year FY 2025-26
Personal Services	-\$219,459	-\$266,503
Operating Expenses	-\$9,375	-\$12,660
Capital Outlay Costs	\$0	\$0
Centrally Appropriated Costs	-\$61,403	-\$74,473
Total Costs	-\$290,237	-\$353,636
Total FTE	-3.3 FTE	-4.0 FTE

Department of Corrections

Section 2-2-701, C.R.S., requires Legislative Council Staff to provide information to the General Assembly on long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections. These impacts are described below.

DOC Prison and Parole Costs (Five-year Fiscal Impact)

Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of \$15.4 million over the five-year period

beginning in FY 2025-26. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. The parole impact is assumed to first occur in FY 2028-29. Table 2B shows the estimated cost of the bill over the next five fiscal years.

**Table 2B
State Expenditures
Prison and Parole Operating Costs**

Fiscal Year	Prison ADP Impact¹	Prison Cost	Parole ADP Impact¹	Parole Cost	Total Cost
FY 2025-26	0.00	\$0	0.00	\$0	\$0
FY 2026-27	69.00	\$1,708,802	0.00	\$0	\$1,708,802
FY 2027-28	138.00	\$3,417,605	0.00	\$0	\$3,417,605
FY 2028-29	181.87	\$4,504,035	25.13	\$210,790	\$4,714,825
FY 2029-30	195.87	\$4,850,749	80.13	\$672,113	\$5,522,862
Total Five-Year Cost		\$14,481,191		\$882,903	\$15,364,094

¹ ADP impact signifies the bill's effect on average daily populations in DOC.

DOC Capital Construction Costs

In addition to the five-year operating and parole impacts discussed above, Section 2-2-703, C.R.S., requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$35.0 million would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in the expenditure tables above.

TABOR Refunds

The bill is expected to decrease the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, decreased cash fund revenue will increase the amount of General Fund available to spend or save.

Local Government

By mandating a DOC sentence, the bill may decrease workload and costs for district attorneys to prosecute these cases. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Technical Note

Offender Surcharge Cash Fund Insolvency

The fee that probationers are charged is set in statute at \$50. Decreasing the amount of money in the Offender Surcharge Cash Fund may require the General Assembly to increase the fee in statute in future years to avoid solvency issues. Currently, the fund is projected to become insolvent in FY 2027-28.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2025-26, the bill requires a General Fund reduction of \$228,834 to the Judicial Department, and 3.3 FTE.

State and Local Government Contacts

Corrections

Judicial

District Attorneys