

Colorado Legislative Council Staff Fiscal Note

**FINAL
FISCAL NOTE**

Drafting Number: LLS 14-0605	Date: May 19, 2014
Prime Sponsor(s): Rep. Fields	Bill Status: Postponed Indefinitely
Sen. Newell; Kefalas	Fiscal Analyst: Kerry White (303-866-3469)

SHORT TITLE: CYBER BULLYING

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
Cash Funds	<\$5,000	<\$5,000
State Expenditures		
General Fund	Workload increase. See State Expenditures.	
FTE Position Change		
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.

Summary of Legislation

This bill establishes the new crime of cyberbullying of a minor. To commit the crime, a person must knowingly, through the use of social media, post or add any statement, photograph, or video, or other information about a minor with the intent to cause serious emotional distress to the minor. A person who makes a credible threat against a minor that he or she knows or reasonably should know will be communicated to or viewed by the minor also commits cyberbullying if the conduct results in serious emotional distress to any minor.

The crime of cyberbullying is a class 2 misdemeanor, except it is a class 1 misdemeanor when the basis of the offense is the minor's actual or perceived race, color, religion, ancestry, national origin, physical or mental disability, gender identity, or sexual orientation. The bill clarifies that a conviction of cyberbullying does not preclude a person from being charged with stalking and that, when the conduct results in serious emotional distress to more than one victim, the offender may be convicted of a separate offense for each victim. The bill establishes that the venue for prosecution may be the county where the threat or information is received or viewed by the victim, the county where the victim resides, or any county where additional acts resulting in further serious emotional distress occur.

Background

Under current law, when there is a pattern of behavior involving the acts described in this bill, they are prosecuted as the crime of stalking (Section 18-3-602, C.R.S.). Depending on the circumstances, a conviction of this crime is either a class 4 felony or a class 5 felony and is subject

to modified sentencing as an extraordinary risk crime. Between July 1, 2012, and June 30, 2013, there were 135 convictions of the crime of stalking. Of this number, 31 persons were sentenced to the Department of Corrections (DOC) and 6 used an interactive computer device for stalking. As of this writing, no information about the number of offenses that meet the criteria of HB14-1131 is known.

State Revenue

Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000 and the fine penalty for a class 2 misdemeanor is a fine of \$250 to \$1,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

Overall, this bill is expected to increase workload beginning in FY 2014-15 for the Judicial Department. Under the bill, the new crime of cyberbullying of a minor is created, which is anticipated to result in an increase in case filings for trial courts. In addition, the bill may result in workload increases for the probation division if persons are sentenced to supervision as part of the disposition. As of this writing, the fiscal note assumes that any such increases in workload will not require an increase in appropriations.

Local Government Impact

This bill impacts local governments by creating the new basis for the crime of cyberbullying of a minor, which is either a class 1 or a class 2 misdemeanor. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. The penalty for a class 2 misdemeanor is 3 to 12 months in a county jail, a fine of \$250 to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates. In addition, if cases are prosecuted in the City and County of Denver, revenue and workload for county courts and probation services will increase by a minimal amount.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 the existing crime that creates a new factual basis for the offense. This bill creates the new crime of cyberbullying a minor. As of this writing, no information is known about the number of offenses that may occur under HB14-1131. As discussed in the Background section above, the crime is similar to stalking, for which there are 135 convictions per year.

Effective Date

The bill was postponed indefinitely by the Senate Judiciary Committee on April 9, 2014.

State and Local Government Contacts

Counties
Municipalities

District Attorneys
Public Safety

Judicial
Sheriffs