

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0094
Prime Sponsor(s): Rep. Fields
 Sen. Newell

Date: January 28, 2015
Bill Status: House Judiciary
Fiscal Analyst: Bill Zepernick (303-866-4777)

BILL TOPIC: INTERACTIVE ELECTRONIC HARASSMENT

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue Cash Funds	<\$5,000	<\$5,000
State Expenditures	Minimal increase. See State Expenditures Section.	
FTE Position Change		
TABOR Set Aside	<\$5,000	<\$5,000
Appropriation Required: None.		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

Under current law, harassment may include communications intended to harass, threaten bodily injury or property damage, or make obscene comments, requests, or suggestions that are made by telephone, telephone network, data network, text message, instant message, computer, computer network, or computer system. The bill modifies this existing statute on harassment to include harassment that occurs through an interactive electronic medium. It also broadens the language to include both direct and indirect communications and language directed toward a person through the various communication methods in the statute.

Background

Harassment is a class 3 misdemeanor, punishable with a term of up to six months in a county jail, a fine of \$50 to \$750, or both. Over the previous three years, 3,092 harassment cases were filed concerning harassment through various communication networks. Of these cases, 753 resulted in convictions. If the harassment is because of the victim's race, color, religion, ancestry, or national origin, the offense is a class 1 misdemeanor. A class 1 misdemeanor is punishable by a fine of \$500 to \$5,000, 6 to 18 months in a county jail, or both. Of the 753 convictions for harassment through various communication networks, 8 convictions were class 1 misdemeanors. It is not known how many of these prior cases involved the use of interactive electronic media.

State Revenue

Beginning in FY 2015-16, 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 3 misdemeanor is \$50 to \$750 and \$500 to \$5,000 for a class 1 misdemeanor. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2014 and the assumption that few additional cases will be brought, the fiscal note assumes that any revenue generated is likely to be less than \$5,000 per year.

TABOR Impact

This bill increases state revenue from fines, which will increase the amount required to be refunded under TABOR.

State Expenditures

Beginning in FY 2015-16, this bill is anticipated to increase workload in the Judicial Department by a minimal amount. The fiscal note assumes that adding "electronic interactive media" to the harassment statute may result in a small number of additional cases being brought, although it is possible such cases could have also been brought under existing statute (e.g., if a computer or telephone were used to access the electronic interactive media).

Probation services in the Judicial Department may also experience a minimal increase in workload to supervise any offenders convicted under the bill. The bill also may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Local Government Impact

This bill will affect local governments in several ways, as discussed below.

Misdemeanor offenses in county courts. First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Denver County Court. The bill results in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill where harassment involves the use of interactive electronic media. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill.

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. For harassment committed through various communication networks, there were 745 convictions of class 3 misdemeanor harassment and 8 convictions of class 1 misdemeanor harassment between January 1, 2013, and January 27, 2015. It is not known if any of these offenses involved the use of interactive electronic media and no information about the gender or minority status of victims was available. The fiscal note assumes that relatively few new cases will be brought under the bill.

Effective Date

The bill takes effect July 1, 2015, and applies to offenses committed on or after this date.

State and Local Government Contacts

Judicial Counties Sheriffs District Attorneys