



**Colorado  
Legislative  
Council  
Staff**

**SB16-034**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated January 22, 2016)

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0484

**Date:** February 9, 2016

**Prime Sponsor(s):** Sen. Sonnenberg

**Bill Status:** Senate Appropriations

**Fiscal Analyst:** Amanda Hayden (303-866-4918)

**BILL TOPIC:** TAMPERING WITH A DECEASED HUMAN BODY

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b> Cash Funds	Potential increase.	
<b>State Expenditures</b> General Fund	Potential increase.	
<b>Tabor Impact</b>	Potential increase in revenue.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Potential minimal increase in state revenues and state expenditures.		

**Summary of Legislation**

This bill, *as amended by the Senate Judiciary Committee*, creates a new crime of tampering with a deceased human body. This offense occurs if a person acts without legal authority and with the belief that an official proceeding is pending or in progress and willfully destroys, conceals, or alters a human body with the intent to impair its appearance or availability for an official proceeding.

The bill classifies penalties for tampering with a human body as follows:

- class 3 felony if the body is related to a charge of a class 1 or class 2 felony;
- class 4 felony if the body is related to a charge of a class 3 or class 4 felony;
- class 5 felony if the body is related to a charge of a class 5 or class 6 felony; and
- class 1 misdemeanor if the body is related to any misdemeanor charge.

The bill excludes human remains from the definition of physical evidence, with regard to the existing offense of tampering with physical evidence.

**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. While this bill creates a new crime related specifically to tampering with a dead body, an existing criminal offense for tampering with physical evidence may be used to prosecute the conduct prohibited by SB16-034.

***Tampering with physical evidence.*** Tampering with physical evidence is a class 6 felony. Over the past three years, there have been 224 convictions for this offense. Of these, 58 were female (4 African American, 1 Hispanic, 2 Other, and 51 Caucasian) and 162 were male (1 Asian, 19 African American, 8 Hispanic, 7 Other, and 127 Caucasian). Race and gender data were not available for four cases. The penalty for a class 6 felony is a term of incarceration in the Department of Corrections of between one year and 18 months, a fine of between \$1,000 and \$100,000, or both.

### **State Revenue**

**Beginning in FY 2016-17, the bill may increase state cash fund revenue from fines by a minimal amount.** Fine revenue is credited to the Fines Collection Cash Fund in the Judicial Department. The fiscal note assumes that the majority of cases involving the conduct contemplated by this bill are being charged under current law. To the extent the passage of this bill causes certain cases to be charged as a higher class felony, fine revenue may increase.

### **TABOR Impact**

This bill may increase state revenue from cash funds, which will increase the amount of money required to be refunded under TABOR.

### **State Expenditures**

This bill is anticipated to increase workload beginning in FY 2016-17 for the Judicial Department and may increase costs to the Department of Corrections (DOC) in FY 2018-19 and in future years. These impacts are described below.

***Judicial Department.*** To the extent that the bill results in lengthier or more complicated trials, the bill may increase workload for the trial courts to hear cases and 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.

***Department of Corrections (DOC).*** The Department of Corrections may experience an increase in costs if individuals who tamper with human remains receive longer sentences. To the extent a net impact to DOC occurs, the fiscal note assumes it will be addressed through the annual budget process.

Because at least two charges of varying severity must be present -- the original charge relating to the human remains and the secondary charge of tampering with them -- and because prosecutors can charge these behaviors in a variety of ways under current law, the precise impact to expenditures cannot be determined.

For cases where an individual may be charged under the bill for multiple crimes, the potential impact to DOC varies depending on the nature of the crimes committed and whether or not convictions carry consecutive or concurrent sentences. The fiscal note assumes that most cases involving tampering with human remains are being charged under current law as tampering with physical evidence, a class 6 felony. Because offenders convicted of a class 6 felony spend on average 11.8 months in prison, new cases involving a class 3 felony charge of tampering with human remains could impact DOC after one year. The fiscal note assumes, however, that individuals charged with tampering with physical evidence related to the commission of serious crimes like murder are already being charged with other serious offenses. Without knowing the exact circumstances or frequency of the crimes or the charging behavior of prosecutors, it is not possible to estimate the impact to DOC.

### **Local Government Impact**

To the extent that this bill increases class 1 misdemeanor convictions for tampering with a deceased human body and offenders are sentenced to prison instead of jail, costs will increase. 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. The fiscal note assumes that most charges related to tampering with a deceased human body will be felony charges and that any impact to local governments, including district attorneys and the Denver County Court, will be minimal.

### **Effective Date**

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed. The bill applies to offenses committed on or after this date.

### **State and Local Government Contacts**

Coroners	Corrections	Counties
District Attorneys	Information Technology	Judicial
Municipalities	Public Health & Environment	Sheriffs

### **Research Note Available**

An LCS Research Note for SB 16-034 is available online and through the iLegislate app. Research notes provide additional policy and background information about the bill and summarize action taken by the General Assembly concerning the bill.