



**Colorado
Legislative
Council
Staff**

HB16-1394

FISCAL NOTE

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

Drafting Number: LLS 16-1069 **Date:** April 11, 2016
Prime Sponsor(s): Rep. Young **Bill Status:** House Health, Insurance & Environment
 Sen. Grantham **Fiscal Analyst:** Chris Creighton (303-866-5834)

BILL TOPIC: ALIGNING ISSUES AROUND AT-RISK PERSONS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
Cash Funds	Potential increase.	
State Expenditures	Workload increase.	
Tabor Impact:	Potential increase	
Appropriation Required: None.		
Future Year Impacts: Ongoing potential revenue increase and workload increase.		

Summary of Legislation

This bill implements the recommendations of the at-risk adults with intellectual and developmental disabilities (IDD) mandatory reporting implementation task force. Among its many provisions, this bill:

- standardizes statutory definitions related to at-risk persons and the mistreatment of at-risk persons, including persons with IDD;
- expands the penalty that can be imposed by the court on a person convicted of mistreatment of an at-risk person to include the payment of treatment costs and restitution;
- adds new mandatory reporters that are required to report the mistreatment of an at-risk person with IDD or at-risk elders;
- removes the provision of law stating that bank and financial service personnel are only required to report mistreatment of an at-risk adult with IDD or elder if it is directly observed;
- adds professionals that are encouraged to report mistreatment of at-risk adults;
- reduces the amount of time local law enforcement agencies or county departments must prepare a written report on at-risk person mistreatment from 48 to 24 hours;
- clarifies that if a county determines an investigation into the mistreatment is needed, the county department of human services or social services must conduct the investigation; and

- clarifies that the human rights committee is responsible for ensuring that an investigation occurs for mistreatment of an adult with IDD who is receiving services through the Office of Community Living in the Department of Health Care Policy and Financing (HCPF).

Background

SB15-109 created the at-risk adults with intellectual and developmental disabilities mandatory reporting implementation task force within the Department of Human Services. This task force was charged with studying and preparing recommendations for the implementation of mandatory reporting of mistreatment, abuse, neglect, or exploitation of at-risk adults with intellectual and developmental disabilities in Colorado. The final report was submitted on November 30, 2015.

The penalty for a crime against an at-risk person varies from a class 1 misdemeanor to a class 2 felony depending on the nature of the crime. Under current law, various professionals are required to report the mistreatment of at-risk persons; these include medical professionals, law enforcement, social workers, court appointed guardians and conservators, and any staff members of a licensed care facility or at home care placement facility among others. Mandatory reporters who fail to report or falsely report the mistreatment of an at-risk person commit a class 3 misdemeanor offense.

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. In the past three years there has been one case where a mandatory reporter was convicted of failure to report the abuse of an at-risk person (female, Caucasian).

Assumptions

This fiscal note assumes that the majority of reported cases of mistreatment of an at-risk person will still come from those that are designated as mandatory reporters under current law. This analysis further assumes that most professionals will comply with the reporting requirement.

State Revenue

Beginning in FY 2016-17, this bill potentially increases state revenue credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for the mistreatment of an at-risk person varies depending on the nature of the crime. The expansion of mandatory reporters for the mistreatment of an at-risk person may result in an increase in cases and convictions for mistreatment of at-risk persons. However, this analysis assumes that most instances of mistreatment are already being reported under current law. Therefore, any cases resulting from the mistreatment of at-risk persons and associated fine revenue is expected to be minimal.

Additionally, by expanding the number of professionals required to report, this bill potentially increases the number of mandatory reporters that may be charged or convicted if they fail to report or falsely report the mistreatment of an at-risk person. This offense is a class 3 misdemeanor, punishable by a fine of \$250 to \$1,000. However, given that the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. Given that there has been only one case of failure to report or falsely reporting the mistreatment of an at-risk person in the last three years, any increase in fine revenue is expected to be minimal.

TABOR Impact

This bill potentially increases state revenue from fines, which may increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

This bill increases state agency workload beginning in FY 2016-17 as described below.

Department of Health Care Policy and Financing. Under this bill certain staff in the HCPF are designated as mandatory reporters of mistreatment of an at-risk person. This will require training to ensure staff is aware of this responsibility and follow proper reporting procedures. This increased workload is expected to be minimal and can be accomplished within existing appropriations.

Judicial Department. By increasing the number of mandatory reporters that are required to report the mistreatment of at-risk persons, this bill could increase the number of cases filed for both the mistreatment of at-risk persons and for failure to report, which would increase workload in the trial courts and the Division of Probation. Any increase in workload is expected to be minimal and can be accomplished within existing appropriations. The bill may also 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 will be minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Department of Regulatory Agencies. This bill increases workload in the Division of Professions and Occupations within the Department of Regulatory Agencies to conduct outreach to licensed professionals to make them aware of their responsibility to report mistreatment of at-risk persons. Additional staff time will also be needed to investigate any complaints against licensed professionals that fail to report mistreatment. This increase in workload is expected to be minimal and can be accomplished within existing appropriations.

Department of Corrections. To the extent that any convictions for the mistreatment of an at-risk person occur and additional offenders are sentenced to a term of incarceration, costs for the Department of Corrections (DOC) will increase. For informational purposes, offenders placed in a private contract prison cost the state about \$60.46 per offender per day, including the current daily rate of \$55.08 and an estimated \$5.38 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any costs in future years arising under HB 16-1394 will be minimal and will be addressed through the annual budget process, if they occur.

Local Government Impact

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

County departments of human services. County departments of human services will be required to conduct additional investigations into the mistreatment of an at-risk person as a result of the expanded mandatory reporting under the bill. County departments of human services will also have increased workload to train staff members who will now be required to report the mistreatment of at-risk persons.

Misdemeanor offenses in county courts. This bill may increase workload for district attorneys to prosecute the mistreatment of an at-risk person or the failure of a mandatory reporter to report the mistreatment of an at-risk person. 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 may result 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 concerning the offenses affected by this bill. Probation services in the Denver County Courts may also experience a minimal increase in workload and revenue to supervise persons convicted under the bill.

Effective Date

The bill takes effect July 1, 2016.

State and Local Government Contacts

Corrections
District Attorneys
Human Services
Judicial
Local Affairs
Public Defenders
Regulatory Agencies

Counties
Health Care Policy and Financing
Information Technology
Law
Municipalities
Public Health and Environment
Sheriffs