



Colorado  
Legislative  
Council  
Staff

SB17-094

FINAL  
FISCAL NOTE

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

**Drafting Number:** LLS 17-0604

**Date:** June 8, 2017

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

**Bill Status:** Postponed Indefinitely

**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** MAKE FELONY MURDER A CLASS 2 FELONY

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	Potential increase.	
Cash Funds		
State Expenditures	Reduction in costs beginning in FY 2033-34.	
General Fund		
Appropriation Required: None.		
Future Year Impacts: Ongoing reduction in state expenditures beginning in FY 2033-34.		

**NOTE:** This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

### Summary of Legislation

This bill changes the classification for felony murder from a class 1 felony to a class 2 felony, sentenced as a crime of violence. Under the bill, it is no longer an affirmative defense against felony murder if, upon believing that another participant in the underlying crime had a deadly weapon or intended to act in a way that might seriously injure or kill another person, the individual tried to disengage him- or herself from the commission of the crime.

### Background and Comparable Crime

Felony murder is when death results from the commission or attempted commission of a specific felony, including arson, robbery, burglary, kidnapping, specific crimes of sexual assault, or escape. Under current law, the penalty for a class 1 felony is a sentence of life imprisonment or death with no fines. The penalty for a class 2 felony crime of violence is a sentence of 16 to 48 years of imprisonment, a fine of up to \$1 million, and a mandatory parole period of five years.

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 changes the classification of an existing crime. Between calendar years 2014 and 2016, there were 102 convictions of felony murder. Of this number, there were 93 males, 8 females, and 1 for which gender information was not available; 28 were African American, 65 were Caucasian, 6 were Hispanic, and 3 were classified as other/unknown.

## **State Revenue**

Beginning in FY 2017-18, this bill could increase state cash fund revenue in the Judicial Department. By changing the penalty for felony murder from a class 1 felony with no fines to a class 2 felony, some offenders could be assessed a fine of up to \$1 million. Because the courts have the discretion of imposing a fine, the precise impact to state revenue cannot be determined. However, based on the low number of criminal fines imposed in 2016 and that fines are rarely imposed for a class 2 felony, the fiscal note assumes that any revenue generated is likely to be very minimal. The fiscal note similarly assumes a minimal change for any court and administrative fees.

## **State Expenditures**

Beginning no earlier than FY 2033-34, this bill will reduce state General Fund costs in the Department of Corrections. This assumes offenders convicted of felony murder in FY 2017-18 will serve the current average length of stay for a class 2 felony crime of violence, which is 16.7 years in prison. As of this writing, it is not known what the annual cost for a prison bed will be that far into the future or if the current rate of convictions will continue. For informational purposes, the current cost of incarceration is about \$21,900 per offender, per year. Offenders leaving prison will be required to participate in parole for at least five years. The current cost for parole is about \$4,700 per year, per offender. The fiscal note assumes the reduction in appropriations resulting from the bill will be addressed through the annual budget process.

## **Effective Date**

The bill was postponed indefinitely by the Senate Judiciary Committee on March 8, 2017.

## **State and Local Government Contacts**

Corrections  
Information Technology

District Attorneys  
Judicial