

Colorado Legislative Council Staff Fiscal Note

**FINAL  
FISCAL NOTE**

**Drafting Number:** LLS 14-0047 **Date:** May 13, 2014  
**Prime Sponsor(s):** Sen. Baumgardner **Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Hillary Smith (303-866-3277)

**SHORT TITLE:** NO BACKGROUND CHECK FOR STEP-RELATIONS

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>	<b>(&lt;\$5,000)</b>	<b>(&lt;\$5,000)</b>
Revenue Change		
Cash Funds	(<\$5,000)	(<\$5,000)
<b>State Expenditures</b>	Minimal reduction. See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> 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 specifies that no background check is required to transfer a firearm between step-relatives when the transfer is a bona fide gift or loan or when the person transferring the firearm is a member of the U.S. Armed Forces who will be deployed outside of the United States within the next 30 days.

**Background**

Under current law, with certain exceptions, any person who is not a licensed gun dealer must obtain a background check and the approval of the Colorado Bureau of Investigation (CBI) within the Department of Public Safety (DPS) prior to transferring possession of a firearm to another person. Anyone who violates this provision commits a class 1 misdemeanor, is prohibited from possessing a firearm for two years, and may be liable for civil damages related to the use of the firearm.

This requirement does not apply to transfers that are bona fide gifts or loans between immediate family members, defined as spouses, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles. This requirement also does not apply to persons serving in the U.S. Armed Forces who will be deployed outside of the United States within the next 30 days and who transfer a firearm to an immediate family member.

## **State Revenue**

This bill has the potential to decrease state cash fund revenue related to criminal fines and fees paid for background checks. The amount of the decrease is anticipated to be minimal due to the small number of transfers expected to be involved.

The bill will decrease revenue to the Instant Criminal Background Check Cash Fund in the CBI due to a decrease in the number of background checks required. The decrease is expected to be less than \$5,000 per year. Since July 1, 2013, the rate of background checks related to transfers between private individuals has been approximately 14,000 checks per year. However, it should be noted that this number includes background checks performed at gun shows, which were required prior to July 1, 2013. At this point, the CBI is not able to differentiate background checks performed at gun shows from background checks performed for transfers between private individuals.

Any individual requesting a background check from the CBI is required to pay a \$10 fee to the CBI, in addition to any fee charged by the licensed gun dealer to submit the information. The CBI does not track the number of private transfers between step-relatives. However, because transfers of firearms between step-relatives are estimated to represent a very small proportion of total firearm transfers between individuals, the decrease in revenue is expected to be minimal.

This bill also has the potential to decrease 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. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined, but is expected to be minimal.

## **State Expenditures**

This bill will reduce workload by a minimal amount. Although it will reduce the number of background checks required and the number of cases filed, both decreases are expected to be minimal and do not require adjustments to appropriations in any state agency.

**Department of Public Safety.** The bill reduces the situations in which background checks are required for firearm transfers, which in turn reduces workload for the CBI. However, the workload reduction is expected to be minimal due to the small number of transfers involved, and does not require any adjustments to appropriations.

**Judicial Department.** The bill reduces the circumstances under which a person can be charged with a class 1 misdemeanor for failing to comply with background check requirements. However, because only one case has been filed since background checks for private transfers have been required, and because transfers between step-relatives are estimated to constitute a small proportion of overall transfers, this fiscal note assumes that any corresponding reduction in cases filed will be minimal and will not require any adjustments to appropriations to the Judicial Department or any related agency, including the Office of the State Public Defender, the Office of the Alternate Defense Counsel, or the Office of the Child's Representative.

**Local Government Impact**

This bill impacts local governments by reducing the circumstances under which a class 1 misdemeanor could be charged, which therefore may reduce law enforcement costs, district attorney workload, and charges filed in Denver County Court. However, any reductions in workload and charges filed are expected to be minimal. 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. 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. It is assumed that the impact of this bill on county courts will be minimal.

**Effective Date**

The bill was postponed indefinitely by the Senate State, Veterans, and Military Affairs Committee on February 14, 2014.

**State and Local Government Contacts**

Corrections  
Human Services  
Local Affairs  
Sheriffs

Counties  
Judicial  
Municipalities

District Attorneys  
Law  
Public Safety