

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0292
Prime Sponsor(s): Rep. Levy
 Sen. Heath

Date: May 14, 2013
Bill Status: Deemed Lost
Fiscal Analyst: Hillary Smith (303-866-3277)

TITLE: CONCERNING ELIMINATING THE AUTHORITY OF A CONCEALED HANDGUN PERMIT HOLDER TO POSSESS A CONCEALED HANDGUN ON THE CAMPUS OF AN INSTITUTION OF HIGHER EDUCATION.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
Cash Funds		
Fines Collection Cash Fund		<\$5,000
State Expenditures		
General Fund		at least \$19,983
FTE Position Change		
Effective Date: The bill was deemed lost on March 8, 2013, when the Senate laid the bill over to May 10, 2013 during second reading.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: None.		

Summary of Legislation

Under current law, a concealed carry permit holder is authorized to carry a concealed handgun in all areas of the state except those expressly prohibited. Prohibited areas are:

- an area where the carrying of a firearm is prohibited by federal law (*e.g.*, federal courthouses and other federally owned facilities);
- public elementary, middle, or high schools (with exceptions for weapons that remain in a locked vehicle and weapons carried by school security officers); and
- public buildings with permanent security personnel and electronic weapons screening stations at each public entrance (*e.g.*, state courthouses and the State Capitol Building).

This bill, which was deemed lost in the Senate, would have added new prohibited areas where a concealed carry permit holder was not authorized to possess a concealed handgun:

- in any building or structure that is used by a public institution of higher education for any purpose;

- in any stadium or arena that is used by a public institution of higher education to host events, including athletic and extracurricular events and graduation ceremonies; or
- at an outdoor, institution-sponsored event on the campus at which the chief administrator of the campus, in consulting with the chief safety officer for the campus, has elected to prohibit the carrying of firearms.

A permit holder who is employed by a public institution of higher education as a security officer was exempted from these prohibitions while on duty.

Under current law, unlawfully carrying a weapon on school, college, or university grounds is a class 6 felony, but individuals who have a concealed carry permit and who follow restrictions on permit holders may carry a concealed handgun on public college and university grounds. Under the bill, carrying a concealed handgun on the property of a public institution of higher education in violation of the bill would have been a class 6 felony.

Background. In 2012, the Colorado Supreme Court ruled that a University of Colorado systemwide ban on concealed handguns overstepped the university regents' authority (*Regents of the University of Colorado v. Students for Concealed Carry on Campus, LLC*, 271 P.3d 496). As such, the university and all other public institutions of higher education in the state are required to allow valid permit holders to carry concealed handguns.

State Revenue

If more people were charged with unlawfully carrying a weapon on college or university grounds, the bill may have increased state revenue from fines, although less than \$5,000 in new state revenue was expected per year. According to Sections 18-1.3-401 (III)(A), C.R.S., the fine penalty for a class 6 felony is \$1,000 to \$100,000. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, the impact to the cash fund and the General Fund cannot be determined.

State Expenditures

Department of Corrections. This bill was anticipated to increase state General Fund expenditures in the Department of Corrections (DOC) by an estimated \$19,983 every five years due to an increase in convictions of unlawfully carrying a weapon on college or university grounds. Assuming that cases take at least one year to work through the system, General Fund appropriations to the DOC would have increased by \$19,983 in FY 2014-15. It was expected that as public knowledge regarding the bill increases, situations in which individuals carry a concealed handgun on public college or university grounds in violation of the bill would decrease.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$57.03 per offender per day, including the current daily rate of \$52.69 and an estimated \$4.34 per offender per day for medical care provided by the DOC. Table 1 shows the estimated cost of the bill over the next six fiscal years (in order to show the full impact).

Table 1 Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2013-14	0.0	\$0	\$0	\$0
FY 2014-15	0.96	\$0	\$19,983	\$19,983
FY 2015-16	0.0	\$0	\$0	\$0
FY 2016-17	0.0	\$0	\$0	\$0
FY 2017-18	0.0	\$0	\$0	\$0
Total		\$0	\$19,983	\$19,983

Judicial Branch. The bill would likely have increased cases regarding unlawfully carrying a weapon on college and university grounds, but the increase was expected to be minimal and would not have additional appropriations.

Department of Law. Any additional legal work required by the Department of Law to assist higher education institutions in redrafting weapons policies was expected to be minimal and would not have required additional appropriations.

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 these cases, the fiscal note is to include 1) a description of the elements of the new

crime, or a description of the changes to an existing crime, 2) an analysis of whether the new crime, or changes to an existing crime, may be charged under current law, 3) a comparison of the proposed crime classification to similar types of offenses, and 4) an analysis of the current and future anticipated prevalence of the behavior that the proposed new crime, or changes to an existing crime, intends to address.

This bill would have removed the exemption for concealed carry permit holders for the offense of unlawfully carrying a weapon on public college and university grounds. Currently, concealed carry permit holders who follow applicable state laws regarding concealed handguns may not be charged with unlawfully carrying a weapon on public college and university grounds. Under the bill, carrying a concealed handgun on the property of a public institution of higher education in violation of the bill would have been a class 6 felony. As explained in the state expenditures section, this fiscal note assumes that at least one additional person would have been sentenced to prison with a class 6 felony in the first five years after the bill's passage, but that as public knowledge regarding the bill increases, situations in which individuals carry a concealed handgun on public college or university grounds in violation of the bill would have decreased.

Departments Contacted

Corrections
Higher Education
Law
Public Safety

Counties
Human Services
Local Affairs
Sheriffs

District Attorneys
Judicial
Municipalities