

*Colorado Legislative Council Staff*  
**STATE AND LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 00-0299  
**Prime Sponsor(s):** Rep. Gordon

**Date:** January 24, 2000  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Geoff Barsch (303-866-4102)

**TITLE:** CONCERNING A REQUIREMENT OF CRIMINAL HISTORY BACKGROUND CHECKS IN CONNECTION WITH THE TRANSFER OF FIREARMS AT GUN SHOWS.

<b>Fiscal Impact Summary</b>	<b>FY 2000/2001</b>	<b>FY 2001/2002</b>
<b>State Revenues</b>		
General Fund	Fine Revenue	Fine Revenue
Cash Fund	\$795,000	\$615,000
<b>State Expenditures</b>		
General Fund	486,269	406,539
Cash Fund	579,801	470,805
<b>FTE Position Change</b>	1.5 FTE	1.5 FTE
<b>Other State Impact:</b> TABOR		
<b>Effective Date:</b> 90 days following adjournment, unless a referendum petition is filed		
<b>Appropriation Summary for FY 2000-2001:</b> \$486,269 GF for the Department of Corrections - Capital Construction Fund; \$579,801 CF for the Department of Public Safety		
<b>Local Government Impact:</b> See Local Government Impact section		

**Summary of Legislation**

This bill would require a criminal background check be conducted for all firearms transfers at gun shows, or as a result of contacts made at a gun show. This bill creates:

- a class 4 felony for knowingly transferring a firearm to any person prohibited from possessing a firearm pursuant to state or federal law;
- a class 1 misdemeanor for any person to transfer a firearm at a gun show without first obtaining a transaction number from the Colorado Bureau of Investigation (CBI); and
- a class 1 misdemeanor for any person to knowingly make a false or fictitious statement or knowingly present false, fictitious, or misrepresented identification to acquire, or attempt to acquire, a firearm from any transferor at a gun show.

The bill requires the CBI to perform a state and, if possible, a federal criminal background check upon request of a transferor of a firearm at a gun show. The bill specifies the criteria to be used to deny a firearms transfer.

## **Background**

As a result of a July 1, 1999, executive order re-establishing the CBI as the point-of-contact for background checks, the Joint Budget Committee approved a \$604,655 General Fund supplemental appropriation to fund the program from August 1, 1999, through April 1, 2000. Under current program parameters, only federal firearms licensees are required to conduct background checks. Currently, the CBI is not charging a fee for these checks, they are General Fund supported.

This fiscal note assumes that the current program will continue. Should the current program be discontinued, the costs associated with this fiscal note would be reduced as some of the current resources could be used for the bill's implementation.

## **State Revenues**

This bill would authorize the CBI to establish a fee to cover the cost of conducting criminal background checks for gun show transfers. The CBI estimates 30,000 transfers will occur at gun shows annually, 15,000 as a result of private transfers and 15,000 as a result of dealer transfers. The CBI currently performs background checks for federal firearms licensees. It is assumed that *dealers* would continue to conduct background checks using the current program supported by General Fund. The CBI has estimated a fee of \$53 would be necessary to cover program costs for private transfers. This would result in \$795,000 cash fund revenue collected. The fee would be reduced in the second year because there would be no capital outlay expenditures for the program. Legislative Council staff has estimated lower initial program costs than the CBI, which would result in a lower per transaction fee of \$39.

Since the bill creates a new class 1 misdemeanor and class 4 felony, there will be an impact on the state General Fund due to fine revenue collected. A class 1 misdemeanor carries a penalty of a \$500 to \$5,000 fine, while a class 4 misdemeanor carries a penalty of a \$2,000 to \$500,000. Any fine assessed is deposited into the General Fund. It is at the discretion of the court whether to impose a fine, a jail sentence, or both. Therefore the amount of fine revenue cannot be determined.

## **State Expenditures**

*Colorado Bureau of Investigation:* The bill would require criminal background checks on the transfer of any firearm at a gun show. Under current program parameters, only federal firearms licensees are required to conduct background checks. This fiscal note assumes continuation of the current program. The estimated cost to implement the provisions of the bill are based on providing background checks on private transfers. Program costs are shown below:

Cash Fund Expenditure	FY 2000/2001	FY 2001/2002
Personal Services - 1.5 FTE	\$43,510	\$43,510
Temporary/Overtime staffing	198,000	198,000
Operating Expenses	137,123	137,123
Leased Space	67,301	67,301
Capital Outlay	109,716	0
Indirect Costs	24,151	24,151
<b>TOTAL</b>	<b>\$579,801</b>	<b>\$470,085</b>

Estimates for this fiscal note are based on the assumption that temporaries and current FTE working overtime will be used to staff phones at a cost of \$198,000 (25 staff \* 12 hours/day \* 30 days). Operating costs are based on the current program; standard operating costs are used for the 1.5 new FTE.

*Department of Corrections* This bill creates a new class 4 felony penalty for the transfer of a firearm to any person prohibited from possessing a firearm pursuant to state or federal law. It also creates a class 5 felony for attempt or conspiracy to transfer a firearm to an ineligible person. Because this is a new crime, the number of offenders must be estimated. In FY 1998-99, 2 offenders were sentenced to the DOC under a class 4 felony weapons charge, and 26 offenders were sentenced to the DOC under a class 5 felony weapons charge. For each offender in possession of an illegal weapon, there will be a new offender who provides the weapon under the bill. It is assumed that none of these offenders purchased a weapon from a licensed dealer. It is not known what proportion of private sales occur at gun shows. For purposes of this fiscal note, it is assumed that 25 percent of private sales take place at gun shows or as a result of contacts made at a gun show. It is estimated that:

- 0.5 offenders will be convicted and sentenced as a class 4 felony annually (2 class 4 felony weapon offenders x 25% = 0.5 offenders). The estimated length of stay for these offenders is 31.0 months, resulting in an average daily attendance (ADA) of 0.5 after one year, 1.0 after two years, and 1.3 thereafter.
- 6.5 offenders will be convicted and sentenced as a class 5 felony annually (26 class 5 felony weapon offenders x 25% = 6.5 offenders). The estimated length of stay for these offenders is 17.0 months, resulting in an ADA of 6.5 after one year, and 9.2 thereafter.

**Five-Year Fiscal Impact on Correctional Facilities**

Section 2-2-703, C.R.S., requires that bills resulting in a net increase in periods of imprisonment not be passed without five years of appropriations for prison bed construction and

operating costs. Construction costs are estimated to be \$69,467 per bed and operating costs \$26,238 per bed. It should be noted that the construction costs reflect the funding needed to construct the beds in the fiscal year prior to when the additional offenders would enter the system.

<b>FIVE-YEAR FISCAL IMPACT ON CORRECTIONAL FACILITIES</b>				
<b>Fiscal Year</b>	<b>ADA Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2000-2001</b>	0.0	\$486,269	\$0	\$486,269
<b>FY 2001-2002</b>	7.0	222,873	183,666	406,539
<b>FY 2002-2003</b>	10.2	20,261	267,846	288,107
<b>FY 2003-2004</b>	10.5	0	275,499	275,499
<b>FY 2004-2005</b>	10.5	0	275,499	275,499
<b>TOTAL</b>		\$729,404	\$1,002,510	\$1,731,914

**Expenditures Not Included**

Pursuant to the Joint Budget Committee’s budget policies, the following expenditures have not been included in this fiscal note:

- health and life insurance costs; (\$3,317); and
- short-term disability costs; (\$81)

**Local Government Impact**

This bill would have a fiscal impact on local government due to the possible increase in county court filings for misdemeanor offenses and the associated county jail sentences. According to a 1993 report from the State Auditor’s Office, the average daily cost to house an offender in a county jail is \$54. Because the sentencing court has the discretion to impose a fine, a jail sentence, or both, the impact upon local governments is unknown at this time.

**State Appropriations**

This fiscal note indicates an appropriation of \$1,066,070 and 1.5 FTE is required for FY 2000-01; including:

- \$579,801 cash funds and 1.5 FTE for the Department of Public Safety; and

- \$486,269 General Fund for the Department of Corrections for capital construction, plus the remaining five-year General Fund appropriation of \$1,245,645, pursuant to Section 2-2-703, C.R.S.

**Departments Contacted**

Public Safety Corrections