

*Colorado Legislative Council Staff Fiscal Note*

**FINAL  
FISCAL NOTE**

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<b>Drafting Number:</b> LLS 15-0723	<b>Date:</b> September 16, 2015
<b>Prime Sponsor(s):</b> Rep. Salazar; Esgar Sen. Guzman; Balmer	<b>Bill Status:</b> Signed into Law
	<b>Fiscal Analyst:</b> Kerry White (303-866-3469)

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**BILL TOPIC:** STOP POLICE INTERFERENCE COP INCIDENT RECORDINGS

<b>Fiscal Impact Summary*</b>	<b>FY 2015-2016</b>	<b>FY 2016-2017</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		Increase - 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.*

**Summary of Legislation**

This bill specifies that a person has the right to lawfully record any incident involving a peace officer and creates remedies for situations when a peace officer:

- unlawfully destroys or damages the recording or recording device;
- seizes the recording or recording device without permission, a lawful order of the court, or other lawful grounds to seize the device;
- intentionally interferes with the person's lawful attempt to record an incident involving a peace officer;
- retaliates against a person for recording or attempting to record an incident involving a peace officer; or
- refuses to return the person's recording device within a reasonable time period and without legal justification.

If a peace officer engages in any of this conduct, law enforcement agencies and their employees may not claim governmental immunity under state law, and the property owner may file an affidavit with the employer including facts of the incident and a verifiable estimate of the damage. If a recording was damaged or destroyed, the owner may claim \$500 as the value of the recording itself. Upon receipt of the affidavit, the law enforcement agency has 30 days to either pay the amount requested or issue a denial of the request in writing.

Upon receipt of a denial of payment, an aggrieved property owner may file a civil action against the peace officer's employer for actual damages, including the replacement value of the device, \$500 for any damaged or destroyed recording, and any costs or fees associated with the filing of the civil action. The court may order punitive damages of up to \$15,000 and attorneys' fees if it finds the law enforcement agency's denial was made in bad faith. If a court finds the plaintiff's action was frivolous and without merit, it may award the law enforcement agency its reasonable costs and attorneys' fees.

The bill clarifies that an action brought under the bill does not preclude the district attorney from charging a peace officer with tampering with physical evidence or any other crime. The bill defines retaliation as a threat, act of harassment, or any act of harm or injury upon any person or property, when that action is directed to or committed against the person making the recording.

The bill specifies procedures for a peace officer to access a recording of an incident. It also clarifies that a peace officer has the authority to temporarily seize a device used to record an incident involving an officer for up to 72 hours to obtain a search warrant in certain circumstances.

### **State Expenditures**

Beginning in FY 2016-17, this bill will increase workload and costs for trial courts and may increase costs for state agencies that employ peace officers. The fiscal note assumes that peace officers will comply with the requirements of the bill and that any increase in costs will not require an increase in appropriations for any state agency.

**Trial courts.** It is anticipated that workload will increase in trial courts to hear civil cases brought under the bill. Based on the existing workload model, the Judicial Department can hear 150 new civil cases per year without an increase in appropriations. Because this analysis assumes a high rate of compliance by peace officers, no additional appropriations are required. However, should filings exceed expectations, the Judicial Department can request additional appropriations through the annual budget process.

**Law enforcement costs.** To the extent that courts find in favor of plaintiffs in civil cases, costs to state agencies that employ peace officers will increase in order to pay attorney fees and costs and damages of up to \$15,000 per incident. The Departments of Corrections, Law, Natural Resources, Public Safety, and Revenue, and institutions of higher education employ peace officers. The fiscal note assumes that no additional appropriations are required for any state agency.

### **Local Government Impact**

The bill will increase workload and costs for local law enforcement agencies to pay claims and participate in any litigation that should arise. Similar to the state, costs could also increase if a local law enforcement officer is found to have violated the provisions of the bill and is liable for attorneys fees and costs and damages of up to \$15,000. The fiscal note assumes a high rate of compliance among local law enforcement officers.

### **Effective Date**

The bill was signed into law by the Governor on May 20, 2015, takes effect May 20, 2016, and applies to actions committed on or after that date.

### **State and Local Government Contacts**

Corrections  
Higher Education  
Law  
Public Safety

Counties  
Human Services  
Municipalities  
Revenue

District Attorneys  
Judicial  
Natural Resources  
Sheriffs