

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FINAL FISCAL IMPACT**

Drafting Number: LLS 07-0591 **Date:** June 5, 2007
Prime Sponsor(s): Rep. Romanoff and King **Bill Status:** Signed into Law
 Sen. Tupa **Fiscal Analyst:** Chris Ward (303-866-5834)

TITLE: CONCERNING THE CREATION OF A VICTIM ADDRESS CONFIDENTIALITY PROGRAM, MAKING AN APPROPRIATION THEREFOR, AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.

Fiscal Impact Summary	FY 2007-08	FY 2008-09
State Revenue		
Cash Funds		
Address Confidentiality Program Surcharge Fund	\$119,004	\$159,469
Judicial Stabilization Cash Fund	6,263	8,156
Fines Collection Cash Fund	0	less than 5,000
State Expenditures		
General Fund	* \$14,293	\$0
Cash Funds - Address Confidentiality Program Surcharge Fund	109,789	137,120
FTE Position Change	1.5 FTE	2.0 FTE
Effective Date: The Governor signed the bill into law on May 31, 2007, and it is effective July 1, 2007.		
Appropriation Summary for FY 2007-2008: See State Appropriations section.		
Local Government Impact: See Local Government section.		

* *The fiscal note identifies programming costs associated with this bill, but no appropriation is needed based on recommendations of the JBC in the FY 2007-08 Long Bill.*

Summary of Legislation

The bill establishes a program to keep confidential the address of a relocated victim of domestic violence, a sexual offense, or stalking. Under the program, the Secretary of State would designate a substitute address for participants, and then forward mail received through the substitute address to the participant's actual address, which would remain confidential. Application assistance centers would be designated across the state to help facilitate entry into the program. To cover the costs of the program, the bill imposes a \$28 surcharge on persons convicted of domestic violence or stalking.

Participants are responsible for requesting that a state or local government agency use a substitute address when creating a new public record, and for notifying the Secretary of State when certain information changes. Substitute addresses may not be used in registering to vote, when recording real property in a county, or for purposes of assessing property taxes. A governmental agency may request the secretary to disclose a participant's actual address in certain instances and the secretary must establish an expedited process for disclosing a participant's actual address to a criminal justice official or agency.

Under the bill, a participant's actual address and telephone number are not considered public records. As amended, the bill clarifies that this exception from public record requirements does not apply to public records created more than 90 days prior to a participant applying to be certified in the program. For any public record created within 90 days of a person applying to participate, a state or local government agency must redact the participant's actual address from the record or, if requested by the participant, change the record to reflect the substitute address.

As amended, the bill requires a post-enactment review after 2 years to determine whether certain results were achieved and whether funding is adequate for the program to serve all applicants.

State Revenue

The bill will increase state revenue from surcharges, fees, and fines. In total, state revenue is expected to increase by **\$125,267 in FY 2007-08** and \$167,626 per year thereafter, mostly from the proposed surcharge.

Surcharge on Certain Convictions. Beginning July 1, 2007, a \$28 surcharge is imposed on any conviction for domestic violence or stalking (or criminal attempt, conspiracy, or solicitation thereof). The most recent available data indicate that roughly 10,000 convictions per year are attributable to these crimes, mostly for misdemeanor offenses. However, all or part of the surcharge may be waived for indigents or others who cannot pay. Based on historical collections, and after accounting for the likelihood that the surcharge would be reduced or waived for certain offenders, it is assumed that the state would collect 52 percent of assessed surcharges in the first year and 68 percent of assessed surcharges in subsequent years. With these adjustments, the surcharge is expected to generate \$125,267 in FY 2006-07 and \$163,126 per year thereafter.

Five percent of all surcharge revenue is to be retained by the State Court Administrator for administrative costs and credited to the Judicial Stabilization Cash Fund. All other moneys are credited to the Address Confidentiality Program Surcharge Fund and are subject to annual appropriation to the Department of State for program costs. The Secretary of State may also seek gifts, grants, and donations to support the program.

Fees for Handling 2nd Class and Other Mail. Beginning in FY 2008-09, a participant may request that the Secretary of State handle mail other than first-class, certified, and registered mail at the participant's expense. If each of the estimated 300 participants per year request this service, and postage costs average \$15 per year for each participant, the state would collect \$4,500 from participants. It is assumed that this money would be credited to the Address Confidentiality Program Surcharge Fund to offset the department's costs for handling 2nd class and other mail.

Potential fine revenue for new class 1 misdemeanor. Any person who knowingly and intentionally obtains or discloses information in violation of the law is guilty of a class 1 misdemeanor. Per Section 18-1.3-501, C.R.S., the penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Fine revenue not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration or imposing a fine, the impact to state revenue cannot be determined. However, a minimal amount of fine revenue (less than \$5,000 per year) is assumed under the bill beginning in FY 2008-09.

State Expenditures

Establishing the program is expected to require **\$124,081 and 1.5 FTE in FY 2007-08**. The bulk of the first-year costs (\$109,789) relate to operating the program in the Department of State, as shown in Table 1, but a portion (\$14,293) relates to one-time computer programming changes in the Department of Revenue. Program costs are anticipated to be at least \$137,120 in FY 2008-09 and will increase in future years based on the number of participants and the volume of mail to be processed. Program costs are to be paid from the Address Confidentiality Program Surcharge Fund, but General Fund moneys may also be appropriated if necessary.

Table 1. Department of State Costs Under HB 07-1350		
Cost Components	FY 2007-08	FY 2008-09
Personal Services	\$70,121	\$92,003
FTE	1.5	2.0
Operating Expenses (including postage)	\$10,160	\$19,614
Capital Outlay	\$5,508	\$1,503
Leased Space	\$24,000	\$24,000
TOTAL	\$109,789	\$137,120

Department of State costs shown in Table 1 are based on the following assumptions:

- the program is available to participants beginning July 1, 2008, but startup costs will be incurred in FY 2007-08;
- an average of 300 people will elect to enter the program each year beginning with FY 2008-09, but no person will participate for more than 4 years;
- certifying application assistant centers will require the program manager to travel extensively in the first year;
- staff functions will include developing information packets for participants, receiving and forwarding mail, and responding to inquiries;
- the state will pay an average of \$25 in postage costs per participant per year for forwarding first-class, certified, and registered mail while participants will pay an average of \$15 per year for other mail;
- staff will require annual training on domestic violence issues; and
- security constraints and the limited space available in the Department of State will require the leasing of additional office space.

This fiscal note identifies the minimum amount of staffing necessary to operate the program, based in large part on the staffing patterns for similar programs across the country. It should be noted, however, that the staffing for those other programs vary widely and the Department of State may need additional resources beyond those identified here, especially after the program has been in place for a few years. It is assumed that any additional resources needed to appropriately staff the program would be provided through the annual budget process. In addition, a post-enactment review of the program is required partly to ensure that there is adequate funding to cover the costs for all program participants.

Department of Revenue costs are for modifying the driver license computer system to account for the extended deadlines granted to program participants. This effort is expected to require 420 hours of computer programming at a one-time cost of \$14,293 in FY 2007-08. Computer programming costs for the driver license system are paid from the General Fund. It should be noted, however, that the Joint Budget Committee (JBC) is recommending \$226,788 and 2.2 FTE in the FY 2007-08 Long Bill, including \$66,846 from the General Fund, for computer programming costs in the Department of Revenue associated with 2007 proposed legislation. The fiscal note identifies the programming costs associated with this bill, but the JBC's actions eliminate the need for an additional appropriation of moneys for this purpose.

The Department of Revenue is also required to notify participants about the availability of the substitute address program, but no additional resources will be necessary for this purpose.

Staff Agencies of the Legislative Branch are responsible for conducting the post-enactment review 2 years after the bill becomes law. Given the limited requirements of the review, and the likelihood for easily accessible data from the Department of State, no additional resources will be necessary.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates.

- group health, life and dental insurance
- inflation indices
- regular and supplemental amortization equalization disbursements
- short-term disability
- indirect costs

Local Government Impact

The bill will affect local governments, although the actual costs are unknown. For example, local election officials will have to keep track of a participant's actual address for voting purposes and county assessors will have to keep track of a participant's actual address to assess property taxes. It is assumed that the costs for these functions will not be significant for any individual county, based on the expectation that no more than 1,200 people will participate in the program at any given time.

The penalty for a class 1 misdemeanor is six to 18 months imprisonment 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. For the current fiscal year, the state reimburses county jails a daily rate of \$48.96 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

State Appropriations

Consistent with this fiscal note, the bill appropriates \$109,788 and 1.5 FTE from the Address Confidentiality Program Surcharge Fund to the Department of State for FY 2007-08. No appropriation for the Department of Revenue is necessary, based on recommendations of the JBC in the FY 2007-08 Long Bill.

Departments Contacted

Judicial
Revenue

Legislature
State

Public Safety

Note: The Department of State has indicated that a total of 3.0 FTE would be needed to adequately staff the program, as opposed to the 2.0 FTE identified in this fiscal note. This difference in staffing accounts for a difference in costs of \$25,000 in FY 2008-09 and \$50,000 per year thereafter.