

Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

Drafting Number: LLS 09-0947**Date:** March 23, 2009**Prime Sponsor(s):** Rep. Solano**Bill Status:** House Judiciary

Sen. Shaffer B.

Fiscal Analyst: Sara McPhee (303-866-4782)

TITLE: CONCERNING PUBLIC DISSEMINATION OF PERSONAL INFORMATION OF A PERSON WORKING IN THE CRIMINAL JUSTICE SYSTEM.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue Cash Funds	Less than \$5,000	Less than \$5,000
State Expenditures General Fund	\$3,849	\$3,849
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon signature of the Governor or upon becoming law without his signature.		
Appropriation Summary for FY 2009-2010: See Appropriations section of the fiscal note.		
Local Government Impact: See Local Government Impact section		

Summary of Legislation

This bill expands the existing crime of posting personal information about a peace officer on the Internet to include law enforcement officials. A law enforcement official includes a peace officer, a judge, a magistrate, or a prosecutor. A violation of this crime is a class 1 misdemeanor.

Law enforcement officials also may request that their address and telephone number be kept confidential on public records if they believe that they, or a member of their immediate family, might be in danger of harm. To request that a public record be kept confidential, a law enforcement officer must make the request at the appropriate office where the record is held. The Office of the Secretary of State is to develop a form to be used for law enforcement officials to apply to have their records kept private. The public custodian of the record may assess a fee of up to \$5.00 per application. Certain exceptions apply, such as criminal justice agencies or a person who requires the address and telephone number to comply with federal or state law.

State Revenue

Any custodian of a record that a law enforcement official requests to have redacted may assess a fee of up to \$5.00. For state agencies that maintain public records, such as the Office of the Secretary of State, this bill will create additional revenue from the fee. This fiscal note assumes that few law enforcement officials will apply to have their records redacted; therefore, any increased state revenue is expected to be less than \$5,000.

The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to 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 that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

State Expenditures

Office of the Secretary of State: To implement this bill, the Office of the Secretary of State requires \$3,349 in FY 2009-10 and FY 2010-11. The custodian of a public record is required to redact the personal address information of a law enforcement official who believes that he or she (or his or her family) is in danger of harm if the information remains public. This fiscal note estimates that there are 8,000 to 10,000 law enforcement officials who could apply to have their records redacted. Because law enforcement officials are required to believe that they or their family are in danger of harm in order to have the records redacted, the fiscal note assumes that 1 percent or 100 law enforcement officials will apply for the record redaction each year.

The Office of the Secretary of State maintains many public records, such as business records and campaign finance contributions, that will require redaction at the request of a law enforcement official. The office currently has a process in place for similar requests for redacted voter registration information as allowed under current statute; however, other types of records maintained by the office are kept in separate databases with different search and redaction capabilities.

To redact the records of a law enforcement official, the official is required to submit an application to the office and indicate which records will require redaction. Staff in the Office of the Secretary of State will conduct the appropriate research to determine the appropriate records, submit a request to their information technology department to amend the computer records, and process the appropriate paperwork. It is estimated that each request will require, on average, 1.5 hours of staff time valued at \$40 per request. To perform the estimated 100 redactions per year, the Office of the Secretary of State will require \$3,349 each year.

Local Government Impact

The offices of the county clerks and recorders maintain public records that will require redaction under this bill if a law enforcement official requests it and the official, or his or her family, is in danger of harm. Similar to the Office of the Secretary of State, for the clerks, the process of identifying the appropriate record and redacting the record will take additional time and resources for the county clerks.

State Appropriations

To implement this bill, the Office of the Secretary of State requires a General Fund appropriation of \$3,349 FY 2009-10.

Departmental Differences

The bill includes exceptions for certain authorized people to view the redacted records of law enforcement officials upon request. These exceptions include a criminal justice agency, an insurance, company, and a collections agency. The Office of the Secretary of State states that allowing these authorized individuals to view the redacted records would take time and resources to provide the appropriate records. Furthermore, it is not possible to determine how many of these redacted records would be requested to be viewed by an appropriate agency. Therefore, the department asserts that this provision in the bill requires an additional \$50,000 for compliance. The fiscal note assumes that the number of requests by law enforcement officials to redact their records will be small and that subsequently it will be unlikely that many, if any, requests to review the redacted records will occur. Therefore, this \$50,000 is not included in the fiscal note.

Departments Contacted

Judicial	Law	State
Local Affairs	Public Safety	