

**STATE AND LOCAL
FISCAL IMPACT**

Drafting Number: LLS 14-0310
Prime Sponsor(s): Sen. Rivera
 Rep. Wright

Date: January 30, 2014
Bill Status: Senate SVMA
Fiscal Analyst: Hillary Smith (303-866-3277)

SHORT TITLE: BACKGROUND CHECKS AND FEES FOR GUN TRANSFERS

Fiscal Impact Summary*	FY 2013-14	FY 2014-2015	FY 2015-2016
State Revenue	at least (\$319,167)	at least (\$3,830,000)	at least (\$3,830,000)
<i>Revenue Change</i>			
General Fund			
Cash Funds	at least (319,167)	at least (3,830,000)	at least (3,830,000)
State Expenditures	(\$106,421)	(\$1,303,562)	(\$1,312,768)
General Fund	94,166	1,129,989	1,129,989
Cash Funds	(189,224)	(2,299,269)	(2,299,269)
Centrally Appropriated Costs**	(11,363)	(134,282)	(143,488)
FTE Position Change	(2.1) FTE	(26.3) FTE	(26.3) FTE
Appropriation Required: (\$189,224) cash funds and \$94,166 General Fund - Department of Public Safety (FY 2013-14); (\$2,299,269) cash funds and \$1,129,989 General Fund - Department of Public Safety (FY 2014-15).			

* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

Under current law, with some exceptions, any person who is not a licensed gun dealer must obtain a background check and the approval of the Colorado Bureau of Investigation (CBI) within the Department of Public Safety (DPS) prior to transferring possession of a firearm to another person. Any person who does not follow this requirement commits a class 1 misdemeanor. The CBI is permitted to charge a fee to cover the direct and indirect costs of performing background checks for all firearm transfers. Currently, the fee is set at \$10 per background check. Revenue from the fee is credited to the Instant Criminal Background Check Cash Fund in the DPS.

This bill repeals the requirement that persons who are not licensed gun dealers obtain a background check and the approval of the CBI prior to transferring a firearm. It also repeals the CBI's authority to charge a fee to cover the direct and indirect costs of performing background checks for all firearm transfers.

Background

House Bill 13-1229, which took effect on March 20, 2013, required background checks for private firearms transfers occurring on or after July 1, 2013. House Bill 13-1228, which took effect on March 20, 2013, required the CBI to charge a fee for performing background checks for all firearm transfers. The fiscal note for HB 13-1229 estimated that 26.3 FTE and \$1,529,166 would be appropriated in FY 2014-15 from the Instant Criminal Background Check Cash Fund to the DPS, and assumed that 220,000 background checks for private firearms transfers would be performed in FY 2014-15. This bill repeals the provisions of HB 13-1229 related to background checks for private firearms transfers and repeals HB 13-1228 in its entirety.

In 2013, the CBI conducted 396,955 background checks related to firearm transfers, 6,198 of which were for private transfers. As of December 31, 2013, the CBI InstaCheck Unit employed a total of 34.0 FTE. 4.4 of those 34.0 FTE are funded through fees related to concealed handgun permit application fees, and are not affected by this bill. The remaining 29.6 FTE do not include the full 24.7 FTE appropriated by HB 13-1229 for FY 2013-14 because the CBI has been monitoring the workload related to private firearms transfers. Appropriations related to HB 13-1229 increased from 24.7 to 26.3 FTE for FY 2014-15 based on an expected increase in background checks.

State Revenue

The bill will reduce state cash fund revenue in the Instant Criminal Background Check Cash Fund in the DPS by at least \$319,167 in FY 2013-14 and by at least \$3,830,000 in FY 2014-15 and each year thereafter. The reduction will occur because background checks for non-private firearm transfers are expected to continue at their current rate, but the CBI will no longer be able to charge a fee for conducting them. The bill may also decrease state revenue due the elimination of a class 1 misdemeanor, but the reduction is expected to be minimal.

Assumptions. The estimate of the bill's effect on state revenue is based on the following assumptions:

- the bill will take effect on June 1, 2014;
- approximately 383,000 non-private background checks are conducted per year, with approximately 31,916 expected to take place in June 2014; and
- the fee charged by the CBI for conducting the background check would have remained at \$10.

Beginning in FY 2014-15, this bill is also anticipated to decrease state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined, but is expected to be minimal. Since July 1, 2013, one case has been filed concerning the failure to perform a background check in a private sale.

State Expenditures

This bill will reduce state expenditures for the CBI in the Department of Public Safety by \$106,421 and 2.1 FTE in FY 2013-14, by \$1,303,562 and 26.3 FTE in FY 2014-15, and by \$1,312,768 and 26.3 FTE in FY 2015-16 and each year thereafter. Table 1 and the discussion that follows describe the costs of the bill.

Table 1. Department of Public Safety Expenditures Under SB14-094			
Cost Components	FY 2013-14	FY 2014-15	FY 2015-16
Personal Services	(\$93,063)	(\$1,144,295)	(\$1,144,295)
FTE	(2.1)	(26.3)	(26.3)
Operating Expenses and Capital Outlay Costs	(1,995)	(24,985)	(24,985)
Reduction in expenditures from the Instant Criminal Background Check Cash Fund due to the need to refinance remaining InstaCheck Unit operations with General Fund moneys	(94,166)	(1,129,989)	(1,129,989)
Increase in General Fund expenditures to fund the remaining InstaCheck Unit responsibilities	94,166	1,129,989	1,129,989
Centrally Appropriated Costs*	(11,363)	(134,282)	(143,488)
TOTAL	(\$106,421)	(\$1,303,562)	(\$1,312,768)

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. Cost estimates for this bill are based on the following assumptions:

- the bill will go into effect on June 1, 2014, and refinancing from cash funds to General Fund spending will be needed for one month in FY 2013-14 to fund the InstaCheck Unit within the CBI;
- repealing the provisions of HB 13-1229 related to background checks for private firearms transfers reduces FTE at the CBI by 26.3 FTE per year, the amount appropriated by HB 13-1229 for FY 2014-15. This amount is prorated to 2.1 FTE for one month in FY 2013-14;
- any increase in FTE needed to respond to the demand for all remaining required background checks for firearm transfers (which have increased in recent years) will be addressed through the annual budget process; and
- even with the reduction in FTE, ongoing appropriations related to leased space acquired in response to HB 13-1229 will be necessary.

Department of Public Safety — Repeal of HB 13-1229. The bill reduces the situations in which background checks are required for firearm transfers, which in turn reduces workload for the CBI. Although the CBI has not hired the full 24.7 FTE appropriated by HB 13-1229 for FY 2013-14 and would likely not have hired the full 26.3 FTE appropriated by HB 13-1229 for FY 2014-15 to conduct background checks for private firearms transfers, this fiscal note reduces the existing appropriation for FTE and corresponding personal and operating costs by this amount, prorated to 2.1 FTE in FY 2013-14.

Personal services costs in the CBI are based on a monthly salary of \$2,688 for a technician II, \$3,052 for a technician III, \$3,534 for a technician IV, \$8,475 for a criminal investigator III, and \$3,366 for a program assistant II. Technician IIs and IIIs perform background checks, and technician IVs and criminal investigator IIIs serve in managerial and supervisory positions. The program assistant provides administrative support. It is anticipated that this bill will result in an overall reduction of 2.1 FTE in FY 2013-14 and of 26.3 FTE in FY 2014-15 and future years, as shown in Table 2:

Position	FY 2013-14	FY 2014-15	FY 2015-16
Technician II	(0.5) FTE	(6.8) FTE	(6.8) FTE
Technician III	(1.1) FTE	(13.6) FTE	(13.6) FTE
Technician IV	(0.2) FTE	(2.9) FTE	(2.9) FTE
Criminal Investigator III	(0.1) FTE	(1.0) FTE	(1.0) FTE
Program Assistant II	(0.2) FTE	(2.0) FTE	(2.0) FTE
TOTAL	(2.1) FTE	(26.3) FTE	(26.3) FTE

Department of Public Safety — Repeal of HB 13-1228. Because of the need to refinance the InstaCheck Unit within the CBI, cash fund expenditures from the Instant Criminal Background Check Cash Fund will decrease by \$94,166 in FY 2013-14 and by \$1,129,989 in FY 2014-15 and in future years and General Fund expenditures will increase by \$94,166 in FY 2013-14 and by \$1,129,989 in FY 2014-15 and in future years. These totals represent the funding needed to support the InstaCheck Unit without the 26.3 FTE previously appropriated by HB 13-1229 (prorated to 2.1 FTE for FY 2013-14). The funding to support the 4.4 FTE related to concealed handgun permits remains unchanged by the bill, and does not need to be refinanced.

Judicial Department. The bill reduces the circumstances under which a person can be charged with a class 1 misdemeanor for failing to comply with background check requirements. However, because only one case has been filed since background checks for private transfers have been required, this fiscal note assumes that any corresponding reduction in cases filed will be minimal and will not require any adjustments to appropriations to the Judicial Department or any related agency, including the Office of the State Public Defender, the Office of the Alternate Defense Counsel, or the Office of the Child's Representative.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

Table 3. Centrally Appropriated Costs Under SB14-094*			
Cost Components	FY 2013-14	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	(\$14,068)	(\$160,208)	(\$160,208)
Supplemental Employee Retirement Payments	(5,695)	(79,274)	(88,480)
Leased Space	8,400	105,200	105,200
TOTAL	(\$11,363)	(\$134,282)	(\$143,488)

*More information is available at: <http://colorado.gov/fiscalnotes>

Local Government Impact

This bill impacts local governments by reducing the circumstances under which a class 1 misdemeanor could be charged, which therefore may reduce law enforcement costs, district attorney workload, and charges filed in Denver County Court. However, any reductions in workload and charges filed are expected to be minimal. The penalty for a class 1 misdemeanor is 6 to 18 months 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 was not estimated. 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. It is assumed that the impact of this bill on county courts will be minimal.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2013-14, the Department of Public Safety requires a reduction of \$189,224 and 2.1 FTE from the Instant Criminal Background Check Cash Fund and an increase of \$94,166 from the General Fund. For FY 2014-15, the department requires a reduction of \$2,299,269 and 26.3 FTE from the Instant Criminal Background Check Cash Fund and an increase of \$1,129,989 General Fund.

Departmental Difference

The Department of Public Safety estimates that for FY 2013-14, it requires a reduction of \$189,524 from the Instant Criminal Background Check Cash Fund and an increase of \$189,524 from the General Fund and that in FY 2014-15, it requires a reduction of \$2,295,469 and 22.3 FTE from the Instant Criminal Background Check Cash Fund and an increase of \$1,293,479 from the General Fund. These calculations are based on the department removing 0.0 FTE in FY 2013-14 and removing 4.0 fewer technician IIIs in FY 2014-15 than the fiscal note estimates. The department feels that these additional 4.0 FTE are necessary to handle the expected workload of

firearm background checks that will exist even if HB 13-1229 is repealed. Not including background checks for private firearm transfers, the department completes approximately 383,000 background checks per year. This total represents an increase of almost 12 percent from the previous year. In addition, due to steady increases in background checks for firearm sales over the past few years, the department had at times struggled to complete background checks on a timely basis with the staff appropriated prior to HB 13-1229.

Although staff agrees that the department may need additional FTE to handle its firearm background check workload even if HB 13-1229 is repealed, this fiscal note reflects the reduction in expenditures and FTE from repealing HB 13-1229, including the staff appropriated to implement it. This fiscal note does not attempt to calculate or adjust estimates of the number of FTE required to complete non-private background checks in an ideal time frame because those needs exist independently of this bill or of HB 13-1229 and are more appropriately addressed through the annual budget process.

State and Local Government Contacts

Corrections
Human Services
Local Affairs
Sheriffs

Counties
Judicial
Municipalities

District Attorneys
Law
Public Safety