

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 15-0364
Prime Sponsor(s): Sen. Aguilar

Date: January 23, 2015
Bill Status: Senate SVMA
Fiscal Analyst: Lauren Schreier (303-866-3523)

BILL TOPIC: AUDITOR ACCESS TO CONFIDENTIAL COUNTY RECORDS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue Cash Funds	<\$5,000	<\$5,000
State Expenditures	Minimal increase. See State Expenditures section.	
FTE Position Change		
Appropriation Required: None.		

** This summary shows changes from current law under the bill for each fiscal year.*

Summary of Legislation

The bill permits an auditor conducting a financial or performance audit to receive access to all of the records, reports, papers, files, and communications (county documents) of the county department of human or social services (county department) deemed necessary to conduct the audit. Under the bill, this access applies to auditors retained by a county or conducting an audit pursuant to a county charter or ordinance. This information includes any personal identifying information of individuals that may be contained in these county documents. The bill prohibits an auditor, auditor's staff, or an audit oversight committee from releasing or sharing in the audit report any information, including personal identifying information, that is required to be kept confidential or exempt from public disclosure. If an auditor or a person releases such information, the individual will be subject to all applicable civil and criminal penalties. Nothing in the bill supercedes the authority of the State Auditor.

Background

Current law limits or prohibits access or publication of some county documents containing personal identifying information maintained by a county department. Such county documents may include information related to child abuse and neglect, welfare and public assistance, social services, child welfare services, and at-risk adults. Since January 2012 there have been no reported filings for the unclassified misdemeanor offense related to the unauthorized release of confidential or personal identifying information.

State Revenue

Beginning in FY 2015-16, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for an unclassified misdemeanor is up to \$500. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, given that no fine revenue has been received in recent years related to this offense under current law, the fiscal note assumes that any revenue generated will be minimal. To the extent that a person incarcerated as a result of this bill would otherwise be paying income taxes on wages and/or sales taxes on purchases, some of the increased fine revenue will be offset by reduced income and sales tax revenue. Most income and sales tax revenue is credited to the General Fund.

State Expenditures

The bill may increase workload and costs for some state agencies. The fiscal note assumes that such increases are minimal and that no increases in appropriations are required for any state agency.

Judicial Department. The bill may increase workload for the trial courts to hear cases for persons who unlawfully release confidential information. In addition, if a defendant is found guilty and sentenced, workload may increase for the probation division.

Other agencies of the Judicial Branch. To the extent that defendants are determined to be indigent, workload could increase for the Office of the State Public Defender (OSPD) to provide representation. If the OSPD has a conflict, representation is provided by the Office of the Alternative Defense Counsel.

Local Government Impact

This bill impacts local governments by expanding the population of people who may be charged for the unlawful release of information, which is an unclassified misdemeanor. The penalty for an unclassified misdemeanor is up to \$500 in fines, up to 3 months in a county jail, or both. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. SB 15-038 expands the population of persons who could potentially be charged with an offense punishable under current law. As noted in the background section, there have been no convictions for this offense in the past three years. The fiscal note assumes few, if any, additional offenses will occur under this bill.

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties
Municipalities
Corrections
Local Affairs
State Auditor

Judicial
Sheriffs
Human Services
Office of the Alternate Defense Counsel