

FISCAL IMPACT

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BILL TOPIC: CRIMINAL CHARGES BASED ON UNLAWFUL ORDER

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	Workload and cost increases.	
FTE Position Change		
Appropriation Required: None.		

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

Summary of Legislation

This bill requires that if a person is charged with a crime based on violating an unlawful order, the court is to dismiss the charges and order the law enforcement agency that filed the charges to reimburse the defendant for his or her attorney's fees and costs. The bill clarifies that the term "unlawful order" means an order that violates a person's constitutional or statutory rights.

State Expenditures

Overall, this bill is anticipated to increase workload for the Judicial Department by a minimal amount and may increase costs for state agencies that employ peace officers.

Because of the possibility to recover attorney's fees and costs, the fiscal note assumes that there may be a minimal increase in the number of persons who assert that criminal charges are based on a violation of an unlawful order. This will increase workload for the courts to hear petitions and make findings. The fiscal note assumes that generally, such cases will not result in early dismissals. However, to the extent that they do, trial court workload will be reduced.

Peace officers are employed by the Departments of Corrections, Law, Natural Resources, Public Safety, and Revenue, and institutions of higher education. To the extent that a court finds that peace officers from these agencies brought forward cases based on a violation of an unlawful order, costs to reimburse the defendant will increase. Because the number of criminal cases to which this may apply is unknown and the amount of attorney's fees and costs varies widely by case, it is not possible to determine the fiscal impact to the state. This analysis assumes that cases are reviewed by a district attorney prior to the filing of charges and that any increases in costs will be minimal. Page 2 March 27, 2015

Local Government Impact

This bill affects local governments in several ways. First, it may impact workload for district attorneys, municipal courts, and the Denver County Court, which is funded and administered by the City and County of Denver. Similar to the state, the fiscal analysis assumes that the amount of time courts spend on proceedings could both increase as a result of having to make additional findings on the underlying factual basis of the case or decrease as a result of early dismissal. These impacts are assumed to be minimal. Second, if a court rules that a law enforcement agency brought charges based on a violation of an unlawful order, costs will increase to reimburse attorney's fees and costs by an indeterminate amount.

Effective Date

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

State and Local Government Contacts

Corrections Higher Education Municipalities Revenue Counties Judicial Natural Resources Sheriffs District Attorneys Law Public Safety