Colorado Legislative Council Staff Fiscal Note

STATE and LOCAL FISCAL IMPACT

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BILL TOPIC: UPDATES TO PROFILING PROHIBITION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures	Minimal workload increase.	
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 expands the existing prohibition against profiling by a peace officer and clarifies limits on law enforcement activities.

Profiling. The bill adds color, national origin, nationality, language, sex, gender identity, sexual orientation, socioeconomic status, and disability to the list of factors that may not be used as a basis for interacting with the public, including suspects. The practice of profiling is clarified to mean:

- selecting a person to be subject to routine or spontaneous investigatory activities including interviews, detentions, traffic stops, pedestrian stops, frisks and other types of bodily searches, or searches of personal or real property; or
- determining the scope, substance, or duration of investigation or law enforcement activity to which a person is subjected.

Law enforcement duties. Except when reasonable and articulable suspicion exists, a peace officer may not:

- keep a person detained beyond the amount of time necessary to issue a citation, enforce a court order, or address a violation of criminal law;
- · ask questions of a person detained beyond the scope necessary; or
- seek consent of the person to conduct a search of the person or his or her real or personal property.

The bill clarifies that a peace officer may use physical descriptions, including sex, race, ethnicity, and color, to apprehend a suspect when there is credible information that links that person to a criminal incident or scheme. Any evidence obtained in violation of House Bill 15-1288 may not be admitted or considered in a judicial proceeding.

State Expenditures

Overall, this bill will increase workload by a minimal amount. State agencies that employ peace officers, including the Departments of Corrections, Law, Natural Resources, Public Safety, and Revenue, and institutions of higher education, may need to update policies and provide additional training to employee peace officers. To the extent that the bill causes additional challenges to the admissibility of evidence on the basis of profiling, workload for the trial courts will also increase. This analysis assumes that the additional workload is minimal and will not require an increase in appropriations for any state agency.

Local Government Impact

Similar to the state, local law enforcement agencies, including municipal police departments and sheriffs' offices, will be required to update policies and provide additional training to employee peace officers. In addition, workload will increase for district attorneys to respond to any new challenges on the admissibility of evidence based on profiling.

Effective Date

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

State and Local Government Contacts

Corrections Counties District Attorneys

Higher Education Human Services Judicial

Law Municipalities Natural Resources

Public Safety Revenue Sheriffs