

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 15-0054  
**Prime Sponsor(s):** Rep. Lawrence

**Date:** January 28, 2015  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** USE OF UNMANNED AERIAL VEHICLES

| <b>Fiscal Impact Summary*</b>        | <b>FY 2015-2016</b>                          | <b>FY 2016-2017</b> |
|--------------------------------------|--|---------------------|
| <b>State Revenue</b>                 |  |                     |
| Cash Funds                           | <\$5,000                                     | <\$5,000            |
| <b>State Expenditures</b>            | Increase.<br>See State Expenditures section. |                     |
| <b>FTE Position Change</b>           |  |                     |
| <b>Impact on TABOR Refund</b>        | <\$5,000                                     | <\$5,000            |
| <b>Appropriation Required:</b> None. |  |                     |

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

**Summary of Legislation**

This bill expands the definition of first degree criminal trespass to include the intentional use of an unmanned aerial vehicle (drone) to observe, record, transmit, or capture images of another person when that person has a reasonable expectation of privacy. The definition of harassment is also expanded to include using a drone to track a person's movements with the intent to harass, annoy, or alarm that person. These definitions do not apply a peace officer or other government official acting in his or her official capacity. The bill also modifies state law concerning retention of records to include information captured by drones.

**Background**

Under current law, first degree criminal trespass is a class 5 felony. The punishment for a class 5 felony is a fine of \$1,000 to \$100,000, between one and three years in prison, or both. Between January 1, 2013, and January 27, 2015, there were 4,445 convictions of this offense. It is not known if any of these offenses involved the use of a drone.

Harassment is a class 3 misdemeanor, punishable with a term of up to six months in a county jail, a fine of \$50 to \$750, or both. Between January 1, 2013, and January 27, 2015, there were 11,959 convictions of class 3 misdemeanor harassment. If the harassment is because of the victim's race, color, religion, ancestry, or national origin, the offense is a class 1 misdemeanor. A class 1 misdemeanor is punishable by a fine of \$500 to \$5,000, 6 to 18 months in a county jail, or both. During the same period, there were 101 convictions of class 1 misdemeanor harassment. It is not known if any of these offenses involved the use of a drone to track a person's movement.

### **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 a class 5 felony is \$1,000 to \$100,000. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000 and \$50 to \$750 for a class 3 misdemeanor. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2014 and the assumption that few existing cases of first degree criminal trespass or harassment involve the use of a drone, the fiscal note assumes that any revenue generated is likely to be less than \$5,000 per year.

### **TABOR Impact**

This bill increases state revenue from fines, which will increase the amount required to be refunded under TABOR.

### **State Expenditures**

Beginning in FY 2015-16, this bill is anticipated to increase workload in the Judicial Department by a minimal amount. In addition, the bill may increase costs in the Department of Corrections. The fiscal note assumes that few, if any, current offenses of first degree criminal trespass or harassment involve the use of drones. To the extent that the bill causes additional people to be convicted of either offense, the fiscal note assumes that a sentence to incarceration is unlikely.

**Judicial Department.** Workload will increase in the Judicial Department to modify the court's ICON/Eclipse information technology system. Workload may also increase to hear any new cases of criminal trespass or harassment arising from the changes under HB15-1115. Probation services in the Judicial Department may also experience a minimal increase in workload to supervise any offenders convicted under the bill. Finally, the bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

**Corrections.** To the extent that any convictions of first degree criminal trespass using a drone occur and a person is sentenced to a term of incarceration, costs for the Department of Corrections (DOC) will increase. For informational purposes, offenders placed in a private contract prison cost the state about \$60.46 per offender per day, including the current daily rate of \$55.08 and an estimated \$5.38 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any costs in future years arising under HB15-1115 will be addressed through the annual budget process.

### **Local Government Impact**

This bill will affect local governments in several ways, as discussed below.

**Misdemeanor offenses in county courts.** First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. 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.

**Denver County Court.** The bill results in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill where harassment involves the use of drones. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill.

### **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. Between January 1, 2013, and January 27, 2015, there were 4,445 convictions of first degree criminal trespass. Between January 1, 2013, and January 27, 2015, there were 11,959 convictions of class 3 misdemeanor harassment and 101 convictions of class 1 misdemeanor harassment. It is not known if any of these offenses involved the use of a drone and no information about the gender or minority status of victims was available. The fiscal note assumes few, if any, of the current or future offenses involve the use of a drone.

### **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**

|                |          |                    |
|----------------|----------|--------------------|
| Corrections    | Counties | District Attorneys |
| Human Services | Judicial | Local Affairs      |
| Municipalities | Sheriffs | Special Districts  |
| Transportation |          |                    |