



**Colorado  
Legislative  
Council  
Staff**

**HB16-1388**

**REVISED  
FISCAL NOTE**

(replaces fiscal note dated March 23, 2016)

**FISCAL IMPACT:**  State  Local  Statutory Public Entity  Conditional  No Fiscal Impact

**Drafting Number:** LLS 16-0203  
**Prime Sponsor(s):** Rep. McCann

**Date:** March 30, 2016  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** EMPLOYER HIRING CRIMINAL HISTORY EMPLOYEE

| <b>Fiscal Impact Summary</b>   | <b>FY 2016-2017</b> | <b>FY 2017-2018</b>     |
|--|---------------------|-------------------------|
| <b>State Revenue</b>   |                     | <b>at least \$5,000</b> |
| Cash Funds   |                     | at least 5,000          |
| <b>State Expenditures</b>  |                     | <b>\$41,799</b>         |
| Cash Funds   |                     | 35,421                  |
| Centrally Appropriated Costs   |                     | 6,378                   |
| <b>TABOR Impact</b>  |                     | at least \$5,000        |
| <b>FTE Position Change</b>   |                     | 0.5 FTE                 |
| <b>Appropriation Required:</b> None.   |                     |                         |
| <b>Future Year Impacts:</b> Ongoing increases in state revenue and expenditures. |                     |                         |

**Note:** This fiscal note is provided to correct the effective date of the bill.

**Summary of Legislation**

This bill prohibits an employer, excluding the state and its political subdivisions, from advertising or including language in an employment application that indicates that a person with a criminal history may not apply for a position. An employer may not make an inquiry about a candidate's arrest history or criminal convictions until it selects a candidate for an interview or extends an offer of employment to that person. Limited exceptions are provided for circumstances when:

- the law forbids a person from being employed due to a criminal conviction or requires an employer to consider a candidate's criminal history;
- the employer is participating in a program to encourage employment of people with criminal histories; or
- the job requires a fidelity bond and the criminal history would disqualify a candidate from obtaining this bond.

Employers must retain applications for nine months and provide them for review to the Colorado Department of Labor and Employment (CDLE) upon request within three days. The CDLE is directed to enforce the law and the bill provides for a range of penalties associated with the size of the employer and number of prior violations. These penalties range from a warning to a fine of \$2,500. The bill clarifies that violations under the bill do not authorize a private cause of action and evidence of violations are not admissible in any legal proceeding other than one initiated by CDLE for enforcement purposes.

### **State Revenue**

Beginning in FY 2017-18, this bill is anticipated to increase state cash fund revenue from fines by at least \$5,000 per year, credited to the Employment Support Cash Fund. Fines will be collected by the CDLE against employers who violate the provisions of HB16-1388.

### **TABOR Impact**

This bill increases state cash fund revenue from fines by at least \$5,000 per year, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

### **State Expenditures**

This bill increases state cash fund expenditures in the CDLE by \$41,799 and 0.5 FTE in FY 2017-18 and by \$34,436 and 0.5 FTE each year thereafter. Table 1 and the discussion that follows describe the costs of HB16-1388.

| <b>Table 1. Expenditures Under HB16-1388</b> |                   |                   |                   |
|--|-------------------|-------------------|-------------------|
| <b>Cost Components</b>                       | <b>FY 2016-17</b> | <b>FY 2017-18</b> | <b>FY 2018-19</b> |
| Personal Services                            | \$0               | \$26,443          | \$26,443          |
| FTE  | 0                 | 0.5 FTE           | 0.5 FTE           |
| Operating Expenses and Capital Outlay Costs  | 0                 | 5,178             | 475               |
| Legal Services                               | 0                 | 3,800             | 1,140             |
| Centrally Appropriated Costs*                | 0                 | 6,378             | 6,378             |
| <b>TOTAL</b>                                 | <b>\$0</b>        | <b>\$41,799</b>   | <b>\$34,436</b>   |

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

**Assumptions.** Costs assume that there will be an estimated 2,500 inquiries and that follow up investigations will be conducted for 250 cases per year. This workload increase requires 0.5 FTE Compliance Investigator I. Standard operating and first-year capital outlay costs are assumed. In the first year, about 40 hours of legal services are required; future years will require about 12 hours per year.

**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 2.

| <b>Table 2. Centrally Appropriated Costs Under HB16-1388</b> |                   |                   |                   |
|--|-------------------|-------------------|-------------------|
| <b>Cost Components</b>                                       | <b>FY 2016-17</b> | <b>FY 2017-18</b> | <b>FY 2018-19</b> |
| Employee Insurance   | \$0               | \$4,009           | \$4,009           |
| Supplemental Employee Retirement Payments                    | 0                 | 2,369             | 2,369             |
| <b>TOTAL</b>   | <b>\$0</b>        | <b>\$6,378</b>    | <b>\$6,378</b>    |

**Effective Date**

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed and applies to acts committed on or after July 1, 2017.

**State and Local Government Contacts**

Information Technology      Labor