

Colorado Legislative Council Staff
**STATE AND LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 00-0075	Date: January 21, 2000
Prime Sponsor(s): Sen. Owen Rep. Tool	Bill Status: Senate Judiciary Fiscal Analyst: Geoff Barsch (303-866-4102)

TITLE: CONCERNING IMPLEMENTATION OF THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM WITH THE COLORADO BUREAU OF INVESTIGATION SERVING AS THE STATE POINT OF CONTACT, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2000/2001	FY 2001/2002
State Revenues		
General Fund	Fine Revenue	Fine Revenue
State Expenditures		
General Fund	\$2,085,202	\$1,915,454
Cash Fund Exempt	47,431	47,431
FTE Position Change	47.0 FTE	47.0 FTE
Other State Impact: TABOR		
Effective Date: Upon signature of the Governor		
Appropriation Summary for FY 2000-2001: \$2,085,202 GF, and \$47,431 CFE and 47.0 FTE for the Department of Public Safety.		
Local Government Impact: See Local Government Section		

Summary of Legislation

This bill authorizes the Colorado Bureau of Investigation (CBI) to serve as the state point of contact for implementation of the permanent provisions of the federal Brady law. The bill directs the CBI to deny a firearm transfer if the transfer would violate federal or state law. If, at the time of the check, the prospective transferee: 1) has been arrested or charged with a crime that, if convicted, would prohibit the prospective transferee from purchasing, possessing, or receiving a firearm under state or federal law; or 2) is the subject of an indictment, an information, or a felony complaint for a crime punishable by a term exceeding one year; the CBI would be required to determine the final disposition of the case. If the CBI is unable to make the determination within 3 business days, the transfer shall take effect without approval. For these cases, the CBI would be allowed to maintain records of transactions longer than 48 hours. If it is determined later that the transfer was illegal, the bill authorizes the CBI to cooperate with law enforcement agencies to retrieve the firearm. The bill requires courts to submit final case disposition information to the CBI for both adult and juvenile matters within 72 hours after the final disposition.

The bill requires the Department of Public Safety to promulgate rules necessary for the CBI to carry out its duties as a state point of contact. Specifically, the rules shall include:

- a state appeals process for denial of a firearm transfer;
- procedures regarding records retention (except that the records shall be retained no longer than 48 hours if the transfer is approved);
- adoption of forms for identification of a prospective transferee that may correspond with federal forms;
- a requirement that the CBI be open for performing background checks every calendar day except Christmas and Thanksgiving;
- providing an in-state, toll-free telephone line available to transferors 12 hours per day; and
- requirements for staffing that ensure prompt processing of background check requests.

The bill creates a class 1 misdemeanor for willfully providing false or fictitious information for the purpose of obtaining a firearm, for knowingly requesting a background check under false pretenses, and for the unauthorized dissemination of criminal history record information.

Background

From March 1994 to November 1998, the CBI operated the Instant Criminal Background Check system under the temporary provisions of the federal Brady Act. Under this program, a \$10.00 fee was charged per applicant and deposited into the Statewide Instant Criminal Background Check Cash Fund created by Section 12-26.5-107, C.R.S. On August 28, 1998, an executive order designated the CBI as Colorado's "point of contact for the (*National Instant Criminal Background Check System*) NICS until the 1999 Colorado General Assembly considers legislation...regarding the state's participation in NICS."

SB 99-58, "Concerning Implementation of the National Criminal Background Check System, and... authorizing the (CBI) to serve as the state point-of-contact..." provided that Colorado would continue conducting state background checks for gun purchases. The bill was postponed indefinitely, and Colorado began using the Federal Bureau of Investigation as the background check point-of-contact.

An Executive Order dated July 1, 1999, re-established the CBI as the point-of-contact for background checks. The Joint Budget Committee approved an additional \$604,665 General Fund and 12.7 FTE to fund the program from August 1, 1999, through April 1, 2000. The CBI is not charging a fee for these checks.

State Revenues

Since the bill creates a new class 1 misdemeanor, there will be an impact on the state General Fund due to fine revenue collected. A class 1 misdemeanor carries a penalty of a \$500 to \$5,000 fine. Any fine assessed is deposited into the General Fund. It is at the discretion of the court whether to impose a fine, a jail sentence, or both. Therefore the amount of fine revenue cannot be determined.

State Expenditures

The bill would continue current program parameters of requiring criminal background checks on the transfer of firearms sold by Federal Firearm Licensees. Because the current program has no statutory authority and is funded through April 1, 2000, only, it is assumed that this bill will be the sole authority for providing criminal background checks on gun purchases. Due to the scope of the bill, program costs include health, life and dental insurance, short-term disability insurance, and leased space. The identified program costs are listed below.

Program Need	FY 2000/2001	FY 2001/2002
Personal Services (47.0 FTE) 1.0 FTE Criminal Investigator; 8.0 FTE Data Supervisor; 18.0 FTE Data Specialist I - Phone center positions; 18.0 FTE Data Specialist I - Support positions; 1.0 FTE General Professional; 1.0 FTE Information Technician Professional; and 4 temporary FTE for phone center peak periods.	\$1,605,550	\$1,605,550
Operating Expenses	217,213	217,213
Leased Space	140,122	140,122
Capital Outlay	169,748	0
TOTAL	\$2,132,633	\$1,962,885

The following assumptions have been made to calculate the fiscal impact:

- there is no statutory authority for the criminal background check program other than the authority granted by this bill;
- the disposition of unmatched criminal records must be determined by CBI staff. (approximately 80 percent of criminal records will remain unmatched);
- the CBI will approve transfers within 3 days; and
- existing program costs will continue at their current level (all new program and staff costs are calculated at the standardized level).

The NICS was used as the model in determining an appropriate level of resources needed to implement the bill's provisions. The NICS employs 500 staff to conduct criminal background checks. Of these, 481 staff are direct analyst and examiner positions, which support 269 call center positions. Colorado's higher rejection rate per applicant (6.3% Colorado to 1.9% NICS) and higher volume per analyst (12,420 per Colorado analyst to 5,972 per NICS analyst) indicate a greater need for support positions. A one to one ratio of call center positions to support center positions is assumed to be the minimum necessary to research unmatched dispositions.

Local Government Impact

This bill would have a fiscal impact on local government due to the projected increase in county court filings for misdemeanor offenses and the associated county jail sentences. According to a 1993 report from the State Auditor's Office, the average daily cost to house an offender in a county jail is \$54. Because the sentencing court has the discretion to impose a fine, a jail sentence, or both, the impact upon local governments is unknown at this time.

State Appropriations

This fiscal note indicates that the Department of Public Safety will require an appropriation of \$2,132,633 and 47.0 FTE for FY 2000-01. Of the total amount, 46.0 FTE and \$2,085,202 is General Fund and 1.0 FTE and \$47,431 is cash funds exempt from indirect cost recoveries.

Departments Contacted

Public Safety Judicial - State Court Administrator