

*Colorado Legislative Council Staff*  
**STATE AND LOCAL**  
**REVISED FISCAL IMPACT**  
(replaces fiscal impact dated February 5, 2000)

<b>Drafting Number:</b> LLS 00-0075	<b>Date:</b> February 8, 2000
<b>Prime Sponsor(s):</b> Sen. Owen Rep. Tool	<b>Bill Status:</b> House Judiciary
	<b>Fiscal Analyst:</b> 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
<b>State Revenues</b>		
General Fund	Fine Revenue	Fine Revenue
<b>State Expenditures</b>		
General Fund	\$1,065,480	\$1,065,480
<b>FTE Position Change</b>	19.0 FTE	19.0 FTE
<b>Other State Impact:</b> TABOR		
<b>Effective Date:</b> Upon signature of the Governor		
<b>Appropriation Summary for FY 2000-2001:</b> \$1,065,480 GF, and 19.0 FTE for the Department of Public Safety.		
<b>Local Government Impact:</b> See Local Government Section		

**Summary of Legislation**

This bill was amended by the Senate Appropriations Committee to eliminate the requirement for the Colorado Bureau of Investigation (CBI) to do an expedited investigation of criminal background records without dispositions. This results in a General Fund reduction of \$1,019,722; a reduction of \$47,431 cash funds exempt, and 28.0 FTE from the original fiscal note dated January 21, 2000.

The bill, **as amended**, authorizes the (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 deny the transfer. If the CBI approves a transfer that is later determined to be 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. This fiscal note assumes existing program costs will continue at their current level. The identified program costs are listed below.

<b>Program Need</b>	<b>FY 2000/2001</b>	<b>FY 2001/2002</b>
Personal Services (47.0 FTE) 1.0 FTE Criminal Investigator; 4.0 FTE Data Supervisors; 14.0 FTE Data Specialists; and 4 temporary FTE for phone center peak periods.	\$862,740	\$862,740
Operating Expenses	135,240	135,240
1-800 Number	67,500	67,500
<b>TOTAL</b>	<b>\$1,065,480</b>	<b>\$1,062,480</b>

**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 a General Fund appropriation of \$1,065,480 and 19.0 FTE for FY 2000-01.

**Departments Contacted**

Public Safety

Judicial - State Court Administrator