



**Colorado  
Legislative  
Council  
Staff**

**HB17-1121**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0634  
**Prime Sponsor(s):** Rep. Buckner

**Date:** February 15, 2017  
**Bill Status:** House Health, Insurance, and Environment

**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** PATIENT SAFETY ACT

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>	<b>FY 2019-2020</b>
<b>State Revenue</b>	<b>up to \$2,619,647</b>	<b>up to \$5,129,602</b>	<b>up to \$739,811</b>
General Fund	<5,000	<5,000	<5,000
Cash Funds	2,614,647	5,124,602	734,811
<b>State Expenditures</b>	<b>\$2,914,675</b>	<b>\$5,391,404</b>	<b>\$1,033,082</b>
Cash Funds	2,637,884	4,944,217	883,920
Centrally Appropriated Costs	276,791	447,187	149,162
<b>TABOR Impact</b>	up to \$1,900,703	up to \$3,723,226	Not estimated.
<b>FTE Position Change</b>	14.4 FTE	30.8 FTE	5.7 FTE
<b>Appropriation Required:</b> \$2,637,884 - multiple agencies (FY 2017-18).			
<b>Future Year Impacts:</b> Ongoing state revenue and expenditure increase.			

**Summary of Legislation**

This bill requires current licensees and certificate holders and future applicants for initial licensure or certification to submit to a criminal history record check in the following professions:

- podiatrists
- dentists and dental hygienists
- medical doctors, physician assistants, and anesthesiologists;
- nurses;
- certified nurse aides;
- optometrists; and
- veterinarians.

After receiving the findings of the criminal history record check, a regulatory board in the Department of Regulatory Agencies (DORA) may deny licensure or certification if an applicant was convicted of, pled guilty or nolo contendere to, or received a deferred sentence, in any state, to any of the following charges:

- unlawful sexual behavior;
- the transfer of any controlled substance from a permissible to an illicit channel of distribution or use; or
- the transfer of a substance with effects similar to the effects of a controlled substance from a permissible to an illicit channel or distribution or use.

The bill repeals the current "Nurse Licensure Compact" and adopts the "Enhanced Nurse Licensure Compact". Applicants under the Enhanced Nurse Licensure Compact must comply with disclosure requirements under the "Medical Transparency Act of 2010". The new compact requires background checks and allows nurses under the compact to provide telehealth nursing services.

The bill eliminates the nurse alternative to discipline program. The bill also requires an employer to report any action that results in the termination of a certified nurse aide (CNA), including resignation in lieu of termination, to the Nursing Board within 30 days. An employer that fails to report such termination may be fined \$500 to \$5,000 per violation.

## State Revenue

***This bill will increase state cash revenue from fees by \$2,614,647 in FY 2017-18, \$5,124,602 in FY 2018-19, and \$734,811 in FY 2019-20.*** General Fund revenue from fines on employers who fail to report the termination of a CNA, will also increase, but is expected to be less than \$5,000 per year.

Fee revenue to the CBI Identification Unit Cash Fund from criminal history record checks will be \$2,366,603 in FY 2017-18, \$4,638,446 in FY 2018-19, and \$665,101 in FY 2019-20. Of this, the Department of Public Safety (DPS) will pass through \$12 per background check to the FBI, which is \$718,944 in FY 2017-18, \$1,406,376 in FY 2018-19, and \$202,056 in FY 2019-20, which will be exempt from TABOR.

Fee revenue to the Division of Professions and Occupations Cash Fund will be \$248,044 in FY 2017-18, \$486,156 in FY 2018-19, and \$69,709 in FY 2019-20 and thereafter. This increase will cover the expenditures generated by this bill.

***Fee impact on healthcare providers.*** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee estimates may differ from the actual fee that will be set administratively by DORA and DPS based on cash fund balance, estimated program costs, and the estimated number of licensees and permit holders subject to the fee. DPS has indicated in its FY 2017-18 budget request that the fee for criminal history record checks will be reduced from the current \$39.50 in FY 2017-18. If the fee for criminal history record checks is reduced prior to the passage of this bill, the fiscal note will be updated to reflect this reduction. DORA's fee increase of \$4.14 will be applied to 2-year licenses and certifications. Tables 1, 2, and 3 below identify the fee impact of this bill and the numbers of healthcare providers subject to the bill each year.

<b>Table 1. Fee Impact on Healthcare Providers for FY 2017-18</b>					
<b>Type of Fee</b>	<b>New</b>	<b>Renewal</b>	<b>Background Check Fee</b>	<b>Additional Licensing Fee</b>	<b>Total Fee Impact</b>
Physicians	1,665		\$39.50	\$4.14	\$72,661
Physician Assistants	370	2,779	39.50	4.14	137,422
Anesthesia Assistants	19	17	39.50	4.14	1,571
Dentists	356	4,873	39.50	4.14	228,194
Dental Hygienists	330	4,422	39.50	4.14	207,377
Registered Nurses*	7,145	30,771	39.50	4.14	1,654,654
Licensed Practical Nurses	784		39.50	4.14	34,214
Licensed Psychiatric Techs	20		39.50	4.14	873
Certified Nurse Aides	5,739		39.50	4.14	250,450
Veterinarians	294		39.50	4.14	12,830
Podiatrists	20	214	39.50	4.14	10,212
Optometrists	96		39.50	4.14	4,189
<b>TOTAL</b>	<b>16,838</b>	<b>43,076</b>			<b>\$2,614,647</b>

<b>Table 2. Fee Impact on Healthcare Providers for FY 2018-19</b>					
<b>Type of Fee</b>	<b>New</b>	<b>Renewal</b>	<b>Fee</b>	<b>Additional Licensing Fee</b>	<b>Total Fee Impact</b>
Physicians	1,665	20,500	\$39.50	\$4.14	\$967,281
Physician Assistants	370		39.50	4.14	16,147
Anesthesia Assistants	19		39.50	4.14	829
Dentists	356		39.50	4.14	15,536
Dental Hygienists	330		39.50	4.14	14,401
Registered Nurses*	7,145	31,000	39.50	4.14	1,664,648
Licensed Practical Nurses	784	7,700	39.50	4.14	370,242
Licensed Psychiatric Techs	20	975	39.50	4.14	43,422
Certified Nurse Aides	5,739	35,000	39.50	4.14	1,777,850
Veterinarians	294	3,950	39.50	4.14	185,208
Podiatrists	20	216	39.50	4.14	10,299
Optometrists	96	1,250	39.50	4.14	58,739
<b>TOTAL</b>	<b>16,838</b>	<b>100,591</b>			<b>\$5,124,602</b>

By FY 2019-20, the only healthcare providers subject to the criminal history record check will be applicants for new licensure or certification. This is estimated to be 16,838 per year as shown in Table 3.

<b>Type of Fee</b>	<b>New</b>	<b>Renewal</b>	<b>Fee</b>	<b>Additional Licensing Fee</b>	<b>Total Fee Impact</b>
Physicians	1,665	0	\$39.50	\$4.14	\$72,661
Physician Assistants	370	0	39.50	4.14	16,147
Anesthesia Assistants	19	0	39.50	4.14	829
Dentists	356	0	39.50	4.14	15,536
Dental Hygienists	330	0	39.50	4.14	14,401
Registered Nurses*	7,145	0	39.50	4.14	311,808
Licensed Practical Nurses	784	0	39.50	4.14	34,214
Licensed Psychiatric Techs	20	0	39.50	4.14	873
Certified Nurse Aides	5,739	0	39.50	4.14	250,450
Veterinarians	294	0	39.50	4.14	12,830
Podiatrists	20	0	39.50	4.14	873
Optometrists	96	0	39.50	4.14	4,189
<b>TOTAL</b>	<b>16,838</b>	<b>0</b>			<b>\$734,811</b>

**TABOR Impact**

This bill increases state cash fund revenue from fees and General Fund revenue from fines, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. In years when the state collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will increase money available for the General Fund budget.

**State Expenditures**

*This bill increases state cash fund expenditures by \$2,914,675 and 14.4 FTE in FY 2017-18, \$5,391,404 and 30.8 FTE in FY 2018-19, and \$1,033,082 and 5.7 FTE in FY 2019-20.* These expenditures are shown in Table 4 and described below.

**Assumptions.** The number of criminal history record checks performed annually by DPS as a result of this bill are based on the number of new and renewal license and certification applications processed by DORA. The follow up costs for DORA assume that 3 percent of healthcare professionals will have something identified in their criminal history record checks that requires investigation. This equates to 1,797 in FY 2017-18, 3,523 in FY 2018-19, and 505 in FY 2019-20 and thereafter.

<b>Table 4. Expenditures Under HB17-1121</b>			
<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
<b>Department of Public Safety</b>	<b>\$2,656,983</b>	<b>\$4,914,754</b>	<b>\$805,315</b>
Personal Services	678,547	1,537,431	162,566
FTE	11.6 FTE	25.3 FTE	3.0 FTE
Identification Unit Operating Expenses	566,749	1,067,674	153,394
FBI Service Fees	718,944	1,406,376	202,056
Standard Operating Expenses	11,020	24,035	2,850
Network equipment and support	211,480	115,994	115,994
Leased space	229,908	377,706	49,266
Centrally Appropriated Costs*	240,335	385,538	119,189
<b>Department of Regulatory Agencies</b>	<b>\$257,692</b>	<b>\$476,650</b>	<b>\$227,767</b>
Personal Services	154,467	264,258	127,173
FTE - DORA	2.8 FTE	4.7 FTE	2.3 FTE
FTE - Law		0.8 FTE	0.4 FTE
Operating Expenses and Capital Outlay Costs	16,769	13,871	2,185
Legal Services		136,872	68,436
Computer interface and programming	50,000		
Centrally Appropriated Costs*	36,456	61,649	29,973
<b>BILL TOTAL</b>	<b>\$2,914,675</b>	<b>\$5,391,404</b>	<b>\$1,033,082</b>

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

**Department of Public Safety.** DPS will have an increase in expenditures of \$2,656,983 and 11.6 FTE in FY 2017-18, \$4,914,754 and 25.3 FTE in FY 2018-19, and \$805,315 and 3.0 FTE in FY 2019-20 and thereafter from the CBI Identification Unit Cash Fund. The FTE for FY 2018-19 includes 10.4 FTE of temporary staff to meet the increased one-year demand for criminal history record checks. Costs include specialized fingerprinting equipment and for FBI background checks. Leased space costs are also included due to the large number of FTE required to implement the bill. Costs for network connections and support of \$211,480 in FY 2017-18 and \$115,994 will be required in future years and paid for with reappropriated funds to the Office of Information Technology.

**Department of Regulatory Agencies.** DORA will have an increase in expenditures of \$257,692 and 2.8 FTE in FY 2017-18, \$476,650 and 4.7 FTE in FY 2018-19, and \$227,767 and 2.3 FTE in FY 2019-20 and thereafter to investigate findings from the criminal history record checks. Staff will also collect reports from employers regarding CNA terminations. Expenditures will be paid from the Division of Professions and Occupations Cash Fund.

Table 5 shows the actions DORA is expected to take on criminal history background checks that require review including investigations and enforcement action. Legal services hours are required in FY 2018-19 and FY 2019-20 for cases that go to adjudication. This requires 1,440 hours and 0.8 FTE in FY 2018-19 at a rate of \$95.05 and 720 hours and 0.4 FTE in FY 2019-20 and thereafter.

<b>Types of Investigations</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>	<b>FY 2019-2020</b>
Criminal history checks to be reviewed	1,797	3,523	505
No action required	1,245	2,540	379
Cases opened	552	983	126
Short investigations	138	246	32
Full investigations	28	49	6
Expedited settlements	182	324	42
Adjudication	0	18	9

DORA also requires \$5,000 for software to interface the DPS background checks with the licensing system, \$30,000 to interface with the National Council of State Boards of Nursing to implement the Enhanced Nurse Licensure Compact, and \$15,000 for data conversion and migration to be reappropriated to the Office of Information Technology.

**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 6.

<b>Cost Components</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$124,794	\$169,235	\$44,982
Supplemental Employee Retirement Payments	74,643	102,685	25,962
Indirect Costs	77,354	175,267	78,218
<b>TOTAL</b>	<b>\$276,791</b>	<b>\$447,187</b>	<b>\$149,162</b>

**Local Government Impact**

This bill will increase the workload for local law enforcement to take fingerprints from the professionals subject to the bill. The impact will vary by location and the number of healthcare professionals in a jurisdiction requesting fingerprinting.

## Technical Note

The September 1, 2017, effective date does not allow sufficient time for DPS to hire and train fingerprinting staff prior to the required work starting under the bill.

To accommodate the staff increase, the fiscal note assumes that DPS will seek cash funds spending authority of \$1.6 million through a capital construction supplemental budget request to acquire additional leased space. These costs are separate from the appropriation included in this fiscal note.

## Effective Date

The bill takes effect September 1, 2017, except section 20, the Enhanced Nurse Licensure Compact, which takes effect January 1, 2018.

## State Appropriations

For FY 2017-18, the following appropriations are required:

- \$221,236 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund and an allocation of 2.8 FTE. Of this amount, \$50,000 is reappropriated to the Office of Information Technology.
- \$2,416,648 to the Department of Public Safety from the Identification Unit Cash Fund and an allocation of 11.6 FTE. Of this amount, \$211,480 is reappropriated to the Office of Information Technology, and \$718,944 passed through to the FBI.

## State and Local Government Contacts

Information Technology  
Public Safety

Law  
Regulatory Agencies