



**Colorado  
Legislative  
Council  
Staff**

**HB17-1168**

**FISCAL NOTE**

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

**Drafting Number:** LLS 17-0720  
**Prime Sponsor(s):** Rep. Landgraf; Lee

**Date:** February 10, 2017  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** CRIMINAL COURT PROCEDURES FOR MILITARY DEFENDANTS

<b>Fiscal Impact Summary</b>	<b>FY 2017-2018</b>	<b>FY 2018-2019</b>
<b>State Revenue</b> Cash Funds	Potential increase.	
<b>State Expenditures</b> General Fund	Workload increase; potential expenditure decrease.	
<b>TABOR Impact</b>	Potential increase.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing potential increase in state revenue and potential decrease in expenditures; ongoing workload increase.		

**Summary of Legislation**

This bill requires a court, when hearing the criminal case of a person who is currently serving in or a veteran of the United States armed forces (military defendant) and has been diagnosed with a qualified mental health condition to:

- order the person preparing the presentence investigation report to consult with the federal Department of Veterans Affairs or a similar agency that can provide the court with information regarding treatment options available to the military defendant; and
- consider the reported treatment options and other related recommendations when imposing a sentence.

When a military defendant has a specified condition and is eligible for probation, the court is directed to consider this information favorably in deciding whether to grant probation with treatment options. A sentence to a treatment program cannot exceed the period that the military defendant would have served in prison or jail, and the military defendant must agree to participate.

The bill allows the Chief Judge of a Judicial District to establish a program in which military defendants may be supervised by an existing veterans treatment program operated by another judicial district, if no such program exists within the Chief Judge's jurisdiction. It also allows military defendants who live in Colorado and are being supervised under an interstate compact agreement to be placed in an existing or newly created treatment program.

The bill allows a court to order the criminal conviction records of a military defendant to be sealed when certain conditions are met. Among these conditions are a minimum 35-day hearing notice following the court's finding that the military defendant was granted and completed probation successfully and does not present a danger to the health and safety of others. Sex offenses, crimes of violence, and DUI or DWAs are not eligible for sealing.

## Background

According to the United States Department of Veterans Affairs, there were about 409,000 veterans living in Colorado as of 2015. A 2013 estimate by the Defense Manpower Data Center suggests there are about 35,000 active duty military personnel in Colorado.

## State Revenue

Beginning in FY 2017-18, this bill is anticipated to increase state cash fund revenue in the Judicial Department by a minimal amount. To the extent that military defendants are given sentences to probation in lieu of prison or jail, these offenders will each pay a fee of \$50 per month supervised. The actual impact to state revenue has not been estimated.

## TABOR Impact

This bill may increase state revenue from probation supervision fees, 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. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

## State Expenditures

Beginning in FY 2017-18, this bill increases workload for the Judicial Department and may reduce costs in the future for the Department of Corrections, as discussed below.

**Judicial Department.** The bill increases workload for the courts to coordinate resources with federal agencies and to hear petitions for the sealing of records for eligible military defendants. Additionally, to the extent that the bill diverts persons from being sentenced to jail or prison, workload for the Probation Services Division will increase. These impacts are assumed to be minimal and will not require an adjustment in appropriations for any agency within the Judicial Department.

**Department of Corrections.** As noted above, if military defendants are sentenced to probation in lieu of prison as a result of the changes in House Bill 17-1168, costs will decrease. The fiscal note assumes that any reduction in future appropriations will be addressed through the annual budget process.

## Local Government Impact

This bill affects local governments in two ways. First, for criminal cases heard in the Denver County Court or a municipal court, the bill may increase the workload to complete a presentence investigation report and to contact appropriate federal agencies to coordinate resources for certain military defendants. To the extent that local courts sentence additional military defendants to probation, revenue and workload will increase for probation services to supervise these offenders. Second, to the extent that this bill shifts offenders that would have otherwise been sentenced to jail to probation in either the Denver County Court or in a state-supervised program, costs for local jails will be reduced. This impact has not been estimated.

## Technical Note

The bill creates a sealing procedure for military defendants but does not describe how the procedure is initiated, whether or not fees are collected, or if the arrest records are also subject to sealing. For these reasons, the fiscal note does not include any of these potential impacts, except a workload increase in the trial courts to hear petitions to have the records sealed.

## Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

## State and Local Government Contacts

Counties  
Information Technology  
Municipalities

District Attorneys  
Judicial

Human Services  
Military Affairs