



**Colorado
Legislative
Council
Staff**

HB17-1333

FISCAL NOTE

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

Drafting Number: LLS 17-1152

Date: April 24, 2017

Prime Sponsor(s): Rep. Melton; Hooton

Bill Status: House Judiciary

Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: SEAL CRIMINAL RECORDS OF MARIJUANA OFFENSES

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	\$146,041	\$175,128
Cash Funds	146,041	175,128
State Expenditures	Workload increase.	
TABOR Impact	\$146,041	\$175,128
Appropriation Required: None.		
Future Year Impacts: Ongoing increase in state revenue and workload.		

Summary of Legislation

This bill allows an individual to petition the district court to seal his or her arrest or criminal records for the use, possession, or cultivation of marijuana if the offense would not have been a crime had it occurred on or after December 10, 2012. The bill also allows a defendant convicted of a petty offense, misdemeanor, or felony for the use, possession, or cultivation of marijuana to petition to seal his or her conviction records if the offense would not have been a crime if committed on or after December 10, 2012. Defendants must pay the court's filing fee and an additional \$65 fee and must establish by a preponderance of the evidence that the offense would not have been a crime on or after December 10, 2012. Before sealing, the court must post the petition on the State Court Administrator's website for at least 30 days. When the court moves to seal a record under the bill, the defendant must provide to the Colorado Bureau of Investigation (CBI) and each custodian of the conviction records a copy of the court order. The defendant must also pay CBI's record sealing fee. After this takes place, the defendant may request and the court may seal the civil case in which the conviction records were sealed.

Background

On December 10, 2012, the use, possession, and home cultivation of certain amounts of marijuana by residents over age 21 became legal in Colorado as a result of the passage of Amendment 64, a ballot measure approved by voters in the 2012 election.

State Revenue

This bill will increase state cash fund revenue by \$146,041 in FY 2017-18 and by \$175,128 in FY 2018-18. Revenue from fees in the Department of Public Safety increases by \$6,743 in FY 2017-18 and by \$8,086 in FY 2018-19 and in the Judicial Department by \$139,298 in FY 2017-18 and by \$167,042 in FY 2018-19.

Assumptions. Current law already allows for the sealing of records other than convictions, including for the marijuana offenses contemplated by the bill. It also allows for the sealing of conviction records after certain time periods have passed; the longest of these time periods is ten years. As such, the fiscal note assumes that only individuals with convictions entered within the last ten years will move to seal their criminal records under the bill. Between 2007 and 2012, there were at least 11,554 convictions for marijuana offenses that are now considered legal. Of these, 11,157 were petty offenses, 70 were misdemeanors, and 327 were felonies. Because most individuals are already eligible to seal their conviction records, the fiscal note assumes that in approximately 5 percent of these cases per year, or 578 cases, the individual will move to seal his or her criminal records with the Judicial Department and in half of these (289 cases), with CBI as well. There may be additional cases not shown below for individuals deemed indigent who do not pay Judicial's fee. The \$289 per petition collected by Judicial represents \$65 in new revenue and \$224 in revenue that may have been collected in later years when individuals became eligible under current law. The fiscal note assumes that revenue collected in FY 2017-18 will reflect approximately 10 months of record sealing petitions.

Fee impact on individuals. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. CBI charges a fee of \$27.98 to seal criminal records. For the most part, CBI holds arrest records, though they do have some conviction records on file. The Judicial Department charges a civil filing fee of \$224 to seal most criminal records. The bill requires petitioners to pay this \$224 fee plus an additional \$65. The revenue amounts shown below are estimates only, actual revenue collected will depend on the number of petitioners who move to seal records. The table below identifies the estimated fee impact of this bill. First year costs have been prorated to reflect the bill's effective date.

Table 1. Estimated Fee Impact on Individuals under HB17-1333			
Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
Record sealing fee - CBI	\$27.98	241	\$6,743
Record sealing fee - Judicial	\$289	482	\$139,298
FY 2017-18 TOTAL			\$146,041
Record sealing fee - CBI	\$27.98	289	\$8,086
Record sealing fee - Judicial	\$289	578	\$167,042
FY 2018-19 TOTAL			\$175,128

TABOR Impact

This bill increases state cash fund revenue from 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 DPS and the Judicial Department to seal additional criminal conviction records. This workload can be accomplished by existing staff and requires no adjustment in appropriations for either agency. Any other agencies that have criminal conviction records may also see an increase in workload to seal records. To the extent that this occurs at all, the fiscal note assumes it will be minimal.

Local Government Impact

Denver County Court. The bill increases workload for Denver County Court to seal records. Fee revenue collected in Denver County Court is transmitted to the Judicial Stabilization Cash Fund in the Judicial Department.

Records custodians. Any other local government custodians of criminal records, such as police departments and county sheriffs, may also see an increase in workload related to the sealing of conviction records. Any increase is assumed to be minimal.

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

District Attorneys
Municipalities

Information Technology
Public Safety

Judicial
Sheriffs