



**Colorado
Legislative
Council
Staff**

SB17-126

FISCAL NOTE

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

Drafting Number: LLS 17-0658 **Date:** February 8, 2017
Prime Sponsor(s): Sen. Guzman; Gardner **Bill Status:** Senate Judiciary
 Rep. Hamner; Willett **Fiscal Analyst:** Kerry White (303-866-3469)

BILL TOPIC: DOMESTIC VIOLENCE FATALITY REVIEW BOARD

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
Cash Funds	At least \$2,500 per year.	
State Expenditures	\$19,750	\$18,520
General Fund	17,250	16,020
Cash Funds	2,500	2,500
TABOR Impact	Increase.	
Appropriation Required: \$19,750 - Department of Law (FY 2017-18).		
Future Year Impacts: Ongoing increases in state revenue and expenditures.		

Summary of Legislation

This bill creates the Colorado Domestic Violence Fatality Review Board (board) in the Department of Law. The board is to be chaired by a designee of the Attorney General and shall include between 16 and 19 other members appointed by October 1, 2017. Members include representatives from the forensic, domestic violence, law enforcement, prosecutor, and judicial communities. Members serve without compensation, but may receive per diem and reimbursement for costs, subject to the availability of funds. The board is repealed as of September 1, 2028. The board is to convene its first meeting no later than November 1, 2017, and is charged with:

- examining data collected by review teams during the preceding year;
- identifying measures to help prevent domestic violence fatalities and near-death incidents;
- establishing uniform methods for collecting, analyzing, and storing data relating to domestic violence fatalities and near-death incidents; and
- making annual reports and policy recommendations concerning domestic violence to the General Assembly on or before December 1, 2018, and each December 1 thereafter.

Subject to available funds, the board is authorized to hire staff and contract with consultants; contract with local entities; expend money from the newly created Colorado Domestic Violence Fatality Review Board Cash Fund (fund) to pay its direct and indirect costs or to reimburse local review teams; and seek and expend gifts, grants, and donations.

Local and regional domestic violence fatality review teams. The bill authorizes a city, county, or district court to establish a review team consisting of certain subject matter experts to review fatal and near-fatal incidents of domestic violence and related matters, but not more than one team shall be created in each judicial district. If a local or regional child fatality prevention review team is created, it may also operate as a domestic violence review team. Each review team is to determine its own structure and activities, but shall use an uniform methods for collecting, analyzing, or storing data established by the board. On or before September 1, 2018, and each September 1 thereafter, each local review team is to submit its data and recommendations to the board.

Access to records. The bill authorizes the board and any review teams, in accordance with state and federal law, to access records and information relevant to a review of a domestic violence fatality in the custody of a state or local government agency. Mental health and substance abuse records are only available with the consent of the appropriate parties.

Confidentiality. All board and review team meetings and activities, notes, statements, health information, and records are confidential and not subject to the Colorado Open Records Act, subpoena, discovery, or introduction as evidence in any civil or criminal proceeding, unless the information was obtained from another source that is separate and apart from the board or review teams. Each member of the board, a review team, and invited participant at a meeting is required to sign a confidentiality statement and is exempt from examination in a civil or criminal proceeding. A person who knowingly violates the confidentiality requirements commits a class 3 misdemeanor.

Comparable Crime

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill creates a new crime for release of confidential information. For comparison purposes, two similar crimes exist in statute: release of confidential materials and release of data of information contained in records and reports of child abuse or neglect. Both of these offenses are class 1 misdemeanors. There have been zero convictions of either offense over the past three years. For this reason, the fiscal note assumes few convictions will occur under Senate Bill 17-126.

State Revenue

Beginning in FY 2017-18, this bill will increase state cash fund revenue by at least \$2,500 per year, as described below.

Gifts, grants, and donations. The bill is expected to increase state cash fund revenue by about \$2,500 per year in gifts, grants, and donations, credited to the newly created fund. Any receipts are exempt from TABOR.

Background checks. The bill requires that each member of the board submit his or her fingerprints to the Colorado Bureau of Investigation in the Department of Public Safety for a background check. The fee for this check is currently \$39.50, credited to the Identification Unit Cash Fund.

Criminal filings. To the extent that this bill results in additional convictions, it will increase state revenue by a minimal amount, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 3 misdemeanor is \$50 to \$750. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of criminal fines imposed in 2016, the fiscal note assumes that any revenue generated is likely to be minimal.

Court and administrative fees. Based on similar offenses, this bill may also increase state fee revenue by a minimal amount each year. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as probation supervision, drug or sex offender surcharges, genetic testing, victim compensation, late fees, and other administrative fees.

TABOR Impact

This bill may increase state revenue from background check and court-related 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.

State Expenditures

This bill is expected to increase state expenditures by \$19,750 in FY 2017-18 and \$18,520 in FY 2018-19 and future years. Costs are shown in Table 1 and discussed below.

Table 1. Expenditures Under SB17-126		
Cost Components	FY 2017-18	FY 2018-19
Contract Labor	\$13,750	\$13,750
Operating Expenses and Capital Outlay Costs	6,000	4,770
TOTAL	\$19,750	\$18,520

Department of Law. Costs include \$13,750 in annual contract labor to facilitate data gathering and to prepare the required reports. First-year capital outlay costs of \$1,230 are included as are annual operating costs of \$4,770. Operating costs include telephone, printing, and travel expenses to meet with local review teams and provide meals for board meetings. It is assumed that board members will not be reimbursed for travel or other related expenses and the Department of Law will not pay for background checks.

Background checks. The bill increases workload and expenditures within the Colorado Bureau of Investigation to conduct background checks on up to 20 individuals in FY 2017-18, and future years as needed. This analysis assumes that the fee charged to perform the background check will cover the amount reimbursed the Federal Bureau of Investigation and its workload.

Agencies named to the board. Workload will increase for representatives of state agencies appointed to the board. This includes staff from the Departments of Human Services, Public Health and Environment, Judicial, and possibly other agencies. These workload impacts are assumed to be minimal and not require any adjustments in appropriations for any state agency.

Judicial Department. The bill creates a class 3 misdemeanor for release of confidential information. The fiscal note assumes any future filings will be negligible. To the extent that they occur, workload and costs may increase for trial courts, probation services, and agencies that provide representation to indigent offenders, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel.

Local Government Impact

This bill will affect local governments in several ways, as discussed below.

Board and review team participation. Workload and costs will increase for local governments that have representatives serving on the board, or which choose to form local review teams. These impacts have not been estimated, but are assumed to be minimal.

Misdemeanor offenses. First, the bill increases workload for district attorneys to prosecute any new class 3 misdemeanors under the bill. Second, to the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 3 misdemeanor for a period of up to six months. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will be minimal.

Denver County expenditures. The bill may result in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver. The court will try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill.

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 Appropriations

For FY 2017-18, the bill requires a General Fund appropriation of \$17,250 and an appropriation of \$2,500 from the Colorado Domestic Violence Review Board Cash Fund for the Department of Law.

State and Local Government Contacts

Corrections	Counties	County Coroners
District Attorneys	Human Services	Information Technology
Judicial	Law	Municipalities
Public Health And Environment	Public Safety	Sheriffs