



Legislative
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Nonpartisan Services for Colorado's Legislature

HB 18-1344

FINAL
FISCAL NOTE

Drafting Number:	LLS 18-0621	Date:	July 30, 2018
Prime Sponsors:	Rep. Weissman; Sias Sen. Coram; Moreno	Bill Status:	Signed into Law
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Bill Topic: RELIEF FROM CRIMINAL COLLATERAL CONSEQUENCES

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill makes changes related to the process and timing for applying for collateral relief in criminal court cases and authorizes collateral relief to be applied for at the time of adjudication or anytime thereafter in juvenile court cases. This bill increases state and local government workload and revenue on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Summary of Legislation

Under current law, an application for an order for collateral relief can be entered at the time an offender is sentenced to an alternative sentence. This bill provides definitions and makes changes related to the process and timing for applying for collateral relief. The court is authorized to enter an order for collateral relief at the time of conviction for a defendant and anytime thereafter for adult offenders. Additionally, juvenile courts are authorized to enter an order for collateral relief using the same process as criminal courts and may do so at the time of adjudication and anytime thereafter.

Application requirements. An application for collateral relief submitted at the time of conviction or adjudication must include a recent criminal history record check. Any application submitted for collateral relief after conviction or adjudication must include a Colorado Bureau of Investigation (CBI) fingerprint-based background check instead of a criminal history record check. Applications submitted after conviction or adjudication must also include a \$30 fee to cover costs related to the processing of the application. The application must also cite the reasons for seeking the collateral relief and the specific collateral consequence the applicant is seeking relief from.

Presentence investigation report. This bill requires a statement that an offender may apply for collateral relief to be provided in presentence investigation reports.

Background

A collateral consequence is a penalty, prohibition, or other disadvantage imposed on an individual as a result of a conviction or juvenile adjudication. This consequence may prevent the individual from obtaining housing, employment, or retaining a professional license. An order of collateral relief is intended to preserve or enhance an individual's employment or employment prospects and improve their ability to successfully reintegrate in society. Collateral relief may not be granted for felony convictions in which a victim suffered a permanent disability, for crimes of violence, or crimes requiring the offender to register as a sex offender.

The number of applications for collateral relief currently received by the Judicial Department was unknown at the time of this writing.

State Revenue

Beginning in the FY 2018-19, overall this bill increases state cash fund revenue as described below. The exact revenue impact will depend number of applications for collateral relief and timing of the applications and has not been estimated.

Filing fees. This bill creates a \$30 collateral relief application fee for any application submitted after sentencing or adjudication. Overall, because no fees are required for collateral relief applications at the time of conviction or adjudication, it is assumed most applications will be received at the time of conviction or adjudication and this revenue impact will be minimal.

Background checks. By allowing adult offenders to submit a criminal history record check as opposed to a fingerprint background check in any application for collateral relief submitted at the time of conviction, this bill may decrease Department of Public Safety background check revenue. The fee for a fingerprint-based background check is \$39.50 while the fee a criminal history records check is \$6.85. However, by expanding collateral relief to all defendants, background check revenue will increase. Additionally, by allowing juvenile courts to enter an order for collateral relief this bill may increase the number of criminal history record and fingerprint background checks received. Overall, Department of Public Safety cash fund revenue is expected to increase by an undetermined amount.

TABOR Refund

This bill increases state cash fund revenue from filing and background check fees, which will increase the amount of money required to be refunded under TABOR for FY 2018-19 and FY 2019-20. For fingerprint background check fees, only \$29.50 of the \$39.50 background fee check revenue is subject to TABOR as the rest is passed through to the federal government. 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 revenue subject to TABOR is not estimated for years beyond FY 2019-20.

State Expenditures

Beginning in FY 2018-19 and continuing thereafter, overall this bill increases state agency costs and workload as described below.

Judicial Department. This bill is expected to increase the number of applications for collateral relief received by district and county courts by allowing all offenders on or after sentencing to apply for collateral relief. Additionally by allowing applications for collateral relief in juvenile cases, juvenile court workload will increase. It is unknown how many application for collateral relief will be received and in which court such applications will be filed; therefore, this impact has not been estimated. The Judicial Department will request an increase in appropriations through the annual budget process, if needed.

This bill also increases probation department workload to include a statement regarding a defendant's ability to apply for collateral relief in all presentence investigation reports. Because the same standard statement will be included in each report, this workload is considered to be one-time and minimal. Workload also increases to the extent that probation officers file additional motions to revoke previously granted collateral relief. A high level of compliance with any collateral relief conditions imposed is assumed; therefore, this increase is considered minimal.

Lastly, workload also increases to transfer an order of collateral relief through the Colorado Integrated Criminal Justice Information System to the CBI. Because this process is already completed for other collateral relief cases, this impact is considered minimal and can be accomplished within existing appropriations.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will increase under the bill to provide representation to indigent persons in criminal court applications for collateral relief. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process, if needed.

Office of the Child's Representative. This bill may increase workload in the Office of the Child's Representative to provide representation in juvenile court applications for collateral relief and to provide training to guardians ad litem regarding the collateral relief process. It is assumed that this workload can be accomplished within existing appropriations.

Department of Public Safety. To the extent that this bill increases the number of criminal history record checks by expanding collateral relief to all defendants or decreases the number of fingerprint background checks by requiring them only on applications submitted after conviction or adjudication, workload will increase or decrease. It is assumed that overall this impact will be minimal and can be accomplished within existing appropriations.

Department of Regulatory Agencies. To the extent that more collateral relief applications are filed as a result of this bill, workload will increase for the Division of Professions and Occupations to review the application for offenders with a professional license and to determine if a motion objecting against the collateral relief should be filed based on the crime committed and the offender's occupation. Additionally, workload may increase by a minimal amount to conduct education and outreach to professionals. Because this work is already being done, it is assumed this workload can be accomplished within existing appropriations. Additional funds will be requested through the annual budget process, if required.

Department of Law. To the extent this bill increases the number of motions submitted by the Department of Regulatory Agencies objecting against a collateral relief application, costs and workload will increase for the Department of Law. This impact is assumed to be minimal and will be covered by funds reappropriated from the Department of Regulatory Agencies.

Local Government

This bill increases local government revenue, costs, and workload as described below. The exact impact will depend on the number of collateral relief applications, the court in which the applications are filed, and the timing of any applications.

District Attorneys. This bill increases District Attorney costs and workload to respond to, attend collateral relief application hearings, and to provide notifications to victims. This impact has not been estimated.

City and County of Denver. Similar to the state, revenue, costs, and workload increase to the extent that additional applications for collateral relief are received in Denver Juvenile Court or Denver County Court. These impacts have not been estimated.

Effective Date

This bill was signed into law by the Governor on May 29, 2018, and became effective on July 1, 2018.

State and Local Government Contacts

District Attorneys
Judicial

Education
Public Safety

Human Services
Regulatory Agencies