



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number: LLS 21-0531
Prime Sponsors: Rep. Valdez A.

Date: February 25, 2021
Bill Status: House Judiciary
Fiscal Analyst: Aaron Carpenter | 303-866-4918
Aaron.Carpenter@state.co.us

Bill Topic: **CRIMINAL MARIJUANA OFFENSES**

Summary of Fiscal Impact:

- | | |
|---|--|
| <input checked="" type="checkbox"/> State Revenue | <input 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 |

The bill removes the petty drug offense of possessing less than 2 ounces of marijuana and allows certain marijuana offenses to be sealed. The bill will minimally impact state and local revenue and expenditures on an ongoing basis beginning in FY 2021-22.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under current law, a person who possess less than two ounces of marijuana commits a drug petty offense. This bill removes this offense. In addition, the bill increases the eligibility to seal criminal offenses related to marijuana by:

- requiring the court to seal a conviction record for a marijuana possession offense that is otherwise not sealed if the person files documents with the court that they have not been convicted of a criminal offense since the final disposition of all criminal proceedings or release from supervision, whichever is later; and
- allowing those convicted of marijuana cultivation (a class 3 felony) to petition the court to seal their criminal records.

Comparable Crime Analysis

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 an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

Prior conviction data. This bill removes the offense of possessing less than two ounces of marijuana, a drug petty offense. From FY 2017-18 to FY 2019-20, 80 individuals have been convicted and sentenced for this existing offense, or about 27 per year. Of the persons convicted, 66 were male and 14 were female. Demographically, 63 were White, 4 were Black/African American, 2 were Hispanic, 1 was Asian, 8 were classified as "Other," and 2 did not have a race identified.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Assumptions

Drug petty offense. Based on the comparable crime analysis, there will be approximately 27 fewer offenders per year convicted of a drug petty offense per year. For informational purposes, the penalty for this drug petty offense is a fine of up to \$100, with a \$200 surcharge.

Record sealing—marijuana possession. Since current law allows for the sealing of drug petty offense conviction records, any increase in trial court workload to seal marijuana possession records under the bill is expected to be minimal. For informational purposes, the Department of Public Safety charges a \$20 fee to seal criminal records credited to the CBI Cash Fund.

Record sealing—marijuana cultivation. In the past 20 years, there were 32 unique criminal cases with findings entered that are eligible under this bill, or less than 2 a year. While these cases will increase trial court workload to review the circumstances of the case and conduct a hearing, given the limited number of potentially eligible cases, this workload increase is expected to be minimal.

State Revenue and Expenditures

Based on the assumptions above, this analysis assumes that the bill has a minimal impact on state revenue and expenditures. Under the bill, criminal fines, court fees, and record sealing fees, which are subject to TABOR, may decrease by a minimal amount. Similarly, any workload impact for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons, and to the Department of Public Safety, which seals records, are assumed to be minimal and no change in appropriations is required.

TABOR refunds. Under the December 2020 Legislative Council Staff Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2021-22 or FY 2022-23, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

Local Government

Similar to the state, this bill is expected to decrease costs for district attorney's offices and minimally impact workload for the Denver County Court beginning in FY 2021-22. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population. The Denver County Court is managed and funded by the City and County of Denver.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

District Attorneys
Judicial

Human Services
Public Safety

Information Technology