



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 18, 2021)

Drafting Number: LLS 21-0020 Date: March 10, 2021
Prime Sponsors: Rep. Duran; Mullica Bill Status: Senate Judiciary
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Bill Topic: SAFE STORAGE OF FIREARMS

Summary of Fiscal Impact: [X] State Revenue [X] TABOR Refund
[X] State Expenditure [X] Local Government
[] State Transfer [] Statutory Public Entity

This bill requires firearm owners to securely store their firearms, federally licensed gun dealers to provide a locking device, and the Colorado Department of Public Health and Environment to publish information on safe storage. This bill will increase state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This revised fiscal note reflects the reengrossed bill.

Summary of Legislation

This bill requires firearm owners to securely store their firearms, requires federally licensed gun dealers to provide a locking device with each sale or transfer of a firearm, and requires the Colorado Department of Public Health and Environment (CDPHE) to provide the public with information on safe storage on its website and in other materials, as discussed further below.

Secure firearm storage requirement for individuals. This bill requires a person to store their firearms securely. Securely storing a firearm means:

- carrying it on his or her person;
• keeping it in a locked gun safe;
• keeping it in another secure container which a reasonable person would believe to be secure;
• installing a locking device when a person knows, or reasonably should know, that a juvenile or a resident who is ineligible to possess a firearm can gain access to the firearm; or
• possessing a personalized firearm with activated safety characteristics.

The safe storage requirement does not apply when the firearm is an antique firearm. Failure to safely store a firearm is a class 2 misdemeanor.

Licensed gun dealer requirements. The bill requires every licensed gun dealer to provide a locking device with each firearm sold or transferred. Locking devices are not required for the transfer of an antique firearm. The licensed gun dealer must also post a notice warning of the potential punishment for failing to secure a firearm. A licensed gun dealer who does not provide a locking device or post the required notice commits an unclassified misdemeanor punishable by a fine of up to \$500.

Annual report on firearms storage-related offenses. The bill requires the state court administrator to submit a report to the General Assembly providing the number of charges brought in each judicial district for the new offenses described above. Reporting must be done annually starting on July 31, 2022.

Firearms safe storage information. The bill requires the CDPHE to provide information on its website in both English and Spanish about:

- the offense of not securely storing a firearm;
- penalties related to providing a handgun to a juvenile; and
- the requirement that a licensed gun dealer provide a locking device.

The CDPHE must reference these subjects and provide directions to their website in materials provided to licensed gun dealers, shooting ranges, safety instructors, and healthcare providers. In addition, the CDPHE must develop a notice to be displayed by licensed gun dealers and must make the notice available to the public electronically at no charge.

Subject to available funding, the CDPHE must develop and implement a Firearms Safe Storage Education Campaign (education campaign) to inform the public about safe storage and state requirements. The education campaign may develop and provide materials to local law enforcement and healthcare providers to assist with educating the public. The campaign may also provide firearm owners with information on programs that assist owners with purchasing secure storage devices and programs that allow owners to store their firearms at a secure location outside of the home. The General Assembly cannot appropriate money from the General Fund to the education campaign until FY 2023-24; however, the CDPHE may to seek, accept, and expend gifts, grants, and donations for the education campaign at any time.

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.

- **Providing or permitting a juvenile to possess a firearm other than a handgun:** This bill creates the new offense of failing to safely store a firearm, a class 2 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of providing or permitting a juvenile to possess a firearm other than a handgun as a comparable crime. From 2018 to 2020 five offenders have been convicted and sentenced for this existing offense, all white and male.
- **Failing to post notice for selling alcohol to minors.** This bill creates the new offense of not posting a notice about failure to securely store a firearm, an unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failing to post a notice for selling alcohol to minors as a comparable crime. For the last three fiscal years, zero individuals have been convicted and sentenced for this existing offense.
- **Failing to conduct a background check.** This bill creates the new offense of a licensed gun dealer not providing a locking device when selling a firearm, an unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failing to conduct a background check when selling a firearm as a comparable crime. From 2018 to 2020, zero offenders have been convicted and sentenced for this existing offense.

Assumptions. The fiscal note makes the following assumptions about the criminal penalties in the bill.

- **Failure to securely store firearm – class 2 misdemeanor.** Based on data from the Colorado Violent Death Reporting System (CoVDRS), from 2009 to 2019, 312 individuals below the age of 20 were involved in suicides by firearms, approximately 31 individuals per year. Some of these incidents of firearm death or suicide may result from an individual failing to securely store a firearm. In addition, there are likely additional cases where a child is injured due to accidental or self-inflicted use or an unsecured firearm, or scenarios where a child gains access to a firearm and there are no injuries or death captured in the CoVDRS data. At this time, data are not available on these injuries or other cases of unsecured access by children to a firearm. Based on the available data, this fiscal note assumes that there will be approximately 20 new criminal case filings per year for this offense.
- **Failure to provide locking device or post notices – unclassified misdemeanor.** Based on the comparable crime data listed above, the fiscal note assumes that most licensed gun dealers will comply with the requirements of the bill. Therefore, any increase in criminal cases for the unclassified misdemeanor offenses under the bill will be minimal.

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

State Revenue

Starting in FY 2021-22, the bill will increase state revenue from additional criminal fines and fees, and potentially, gifts, grants, and donations as described below.

Criminal fines and fees. By creating new misdemeanor offenses the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2021-22, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 2 misdemeanor is \$250 to \$1,000, while the fine for the unclassified misdemeanors can be up to \$500. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

Gifts, grants, and donations. Starting in FY 2021-22, this bill may increase state revenue to the extent the CDPHE receives any gifts, grants, and donations for the education campaign. At the time of this writing, no source for gifts, grants, or donations has been identified. Gifts, grants, and donations are not subject to TABOR provisions.

State Expenditures

Starting in FY 2021-22, the bill will increase expenditures in various state agencies, as described below.

Department of Public Health and Environment. This bill will increase costs and workload for the CDPHE. The Office of Suicide Prevention, within the CDPHE, will post the required information on the Department's website in English and Spanish, create a downloadable notice and make it available at no cost, and add information to existing materials for gun shop owners, healthcare providers, and facilities. This work can be accomplished within existing appropriations. The office will adapt existing materials and resources that are already available through the Gun Shop Project. Updates to the website, materials, translation services, and designing the notice will take approximately 15 hours. Subject to available funds, CDPHE will also fulfill the requirements of the Education Campaign. Based on the fiscal note for HB 20-1355 and depending on the extent of the campaign, the Education Campaign could cost up to \$3.2 million dollars per year.

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department to process any additional criminal case filings. To the extent that offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. This bill will also require updates to the Judicial Department's case management system. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

In addition, workload for the State Court Administrator will increase to provide reports on the number of criminal cases created under the bill. The fiscal note assumes this workload can be accomplished within existing appropriations.

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

Local Government

Beginning in FY 2021-22, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys. The bill increases workload and costs for district attorneys who prosecute new misdemeanor offenses. District Attorney Offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a recent Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$57.97.

Denver County Court. The bill increases revenue, costs, and workload for the Denver County Court, which is managed and funded by the city and county of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

Effective Date

The bill takes effect July 1, 2021, and applies to any offense committed on or after this date.

State and Local Government Contacts

Corrections	Counties
District Attorneys	Higher Education
Information Technology	Judicial
Local Affairs	Municipalities
Natural Resources	Public Health and Environment
Public Safety	Revenue
Sheriffs	