



**Colorado
Legislative
Council
Staff**

HB16-1264

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 16, 2016)

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

Drafting Number: LLS 16-1002
Prime Sponsor(s): Rep. Melton
Sen. Johnston

Date: March 22, 2016
Bill Status: Senate Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: BAN LAW ENFORCEMENT USE OF CHOKEHOLD

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|---|-----------------------------|--------------|
| State Revenue | <u>Potential reduction.</u> | |
| Cash Funds | Potential reduction. | |
| State Expenditures | Minimal workload increase. | |
| TABOR Impact | Potential reduction. | |
| Appropriation Required: None. | | |
| Future Year Impacts: Ongoing potential decrease in state revenue and increase in workload. | | |

Summary of Legislation

The *reengrossed* bill clarifies that a peace officer may only use a chokehold when he or she reasonably believes that it is necessary to defend himself or herself or a third party is in imminent danger of death or serious bodily injury or to effect an arrest or prevent escape under certain conditions. These conditions include when the peace officer has a reasonable belief that the other person has committed or attempted a felony involving or threatening the use of a deadly weapon; is attempting to escape by the use of deadly force; or indicates, except through a motor vehicle, that he or she is likely to endanger human life or inflict serious bodily injury unless he or she is apprehended without delay. The bill defines a chokehold as a method by which a person holds another person by putting his or her arm around the other person's neck with sufficient pressure to make breathing difficult or impossible and includes, but is not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air.

Background

Under current law, using a chokehold could generally be charged as third degree assault, which is a class 1 misdemeanor. As of this writing, the number of third degree assault cases filed against a peace officer was unavailable, but is assumed to be minimal.

State Revenue

To the extent that this bill makes it more difficult to convict peace officers of third degree assault for using a chokehold and beginning in FY 2016-17, this bill may decrease fine revenue credited to the Fines Collection Cash Fund in the Judicial Department by a minimal amount. The fine penalty for a class 1 misdemeanor for third degree assault is \$500 to \$5,000. 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 fines imposed in 2015 and the assumption that peace officers will comply with the provisions of this bill, the fiscal note assumes that any revenue reduction is minimal.

TABOR Impact

This bill may decrease state revenue from fines, which will reduce the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

Beginning in FY 2016-17, this bill is anticipated to increase workload for several state agencies by a minimal amount. A number of state agencies employ peace officers, including the Departments of Corrections, Law, Natural Resources, Public Safety, and Revenue, as well as institutions of higher education. Under current practice, many of these peace officers are trained to use vascular neck restraint techniques. This analysis assumes state agencies will provide peace officer training and revise any written policies on the use of force in order to comply with the bill. No adjustments in appropriations are anticipated for any state agency.

Local Government Impact

Criminal offenses. While this bill is not anticipated to affect any prosecution or county court workload, to the extent that fewer convictions for third degree assault result from the provisions of the bill and fewer offenders are sentenced to jail, or probation in the City and County of Denver, county costs may also decrease. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. 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. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates.

Training. To the extent that any local law enforcement officers use chokeholds, the fiscal note assumes additional training will be required and written policies on the use of force will need to be updated. This workload is assumed to be minimal.

Effective Date

The bill takes effect and applies to offenses committed on or after July 1, 2016.

State and Local Government Contacts

Corrections
Higher Education
Natural Resources
Sheriffs

Counties
Information Technology
Public Safety

District Attorneys
Judicial
Revenue