



**Colorado
Legislative
Council
Staff**

SB16-080

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 26, 2016)

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

Drafting Number: LLS 16-0907

Date: March 2, 2016

Prime Sponsor(s): Sen. Newell
Rep. Wist; Pabon

Bill Status: House Finance

Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: MARIJUANA GROWS ENCLOSED SPACE REQUIREMENTS

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u><\$5,000</u>	<u><\$5,000</u>
Cash Funds	<5,000	<5,000
State Expenditures	Potential minimal increase.	
General Fund		
TABOR Impact	<\$5,000	<\$5,000
Appropriation Required: None.		
Future Year Impacts: Potential minimal increases in state revenue and expenditures.		

Summary of Legislation

This *reengrossed* bill removes an exemption from certain offenses relating to marijuana and marijuana concentrate provided for lawfully cultivated medical marijuana. Under the bill, residential growers of medical marijuana will be subject to the same requirements as other growers to lawfully cultivate in an enclosed and locked space and to restrict the access of persons under the age of 21, unless that person is at least 18 years old and holds a valid medical marijuana card or is a registered primary caregiver.

The bill also clarifies that if a person is lawfully cultivating medical marijuana, that fact alone is not sufficient to require a referral to child protection services.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 adds a new factual basis for this crime by removing the exemption provided for residential growers of medical marijuana.

The crime is either a level 1 drug misdemeanor (offenses that involve fewer than six plants); a level 4 drug felony (offenses that involve between 6 and 30 plants); or a level 3 drug felony (offenses that involve more than 30 plants).

Between January 1, 2014, and December 31, 2015, there were 24 total convictions for offenses related to marijuana concerning lawful cultivation in an enclosed and locked space. This included:

- nine convictions of a level 3 drug felony (one Caucasian female, one Asian female, two Asian males, three Hispanic males, and two Caucasian males);
- seven convictions of a level 4 drug felony (one Caucasian female, six Caucasian males); and
- eight convictions of a level 1 drug misdemeanor (one Hispanic female, three Caucasian females, one African American male, and three Caucasian males).

State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a level 3 or level 4 drug offense ranges from \$1,000 to \$500,000. The fine penalty for a level 1 drug misdemeanor ranges from \$500 to \$5,000. In addition, if persons are convicted and sentenced to probation, fine revenue will increase by \$50 per month, per offender. 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 low number of total existing cases (averaging 12 per year), the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

TABOR Impact

This bill increases state cash fund revenue from fines, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

State Expenditures

Overall, this bill is expected to increase workload for the Judicial Department by a minimal amount beginning in FY 2016-17. The bill may also increase costs in the future to the Department of Corrections.

Judicial Department. Workload may increase to hear any new cases of offenses against residential medical marijuana growers; the fiscal note assumes this caseload will be low. Probation services in the Judicial Department may also experience a minimal increase in workload to supervise any offenders convicted under the bill. Finally, the bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

Department of Corrections. To the extent that any convictions under the bill result in sentences of a term of incarceration, costs for the Department of Corrections (DOC) will increase. For informational purposes, offenders placed in a private contract prison cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC. No impact is expected in the first year

because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any costs in future years arising under this bill will be addressed through the annual budget process.

Local Government Impact

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

Misdemeanor offenses in county courts. First, the bill may increase workload for district attorneys to prosecute any new offenses under the bill. Second, to the extent that this bill increases level 1 drug misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a level 1 drug misdemeanor for a period of between 6 and 18 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. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates. It is assumed that the impact of this bill will be minimal.

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

Child protection services referrals. To the extent that this bill reduces referrals to child protection services for persons lawfully cultivating medical marijuana, workload and costs for county governments will be reduced. The fiscal note assumes that any reduction in workload is minimal.

Effective Date

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

State and Local Government Contacts

Corrections	Counties
District Attorneys	Governor's Marijuana Office
Judicial	Local Affairs
Municipalities	Office of Information Technology
Revenue	Sheriffs