



**Colorado
Legislative
Council
Staff**

HB17-1048

**FINAL
FISCAL NOTE**

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

Drafting Number: LLS 17-0453
Prime Sponsor(s): Rep. Foote
Sen. Smallwood

Date: May 24, 2017
Bill Status: Signed into Law
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: PROSECUTION OF INSURANCE FRAUD

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue	<u><\$5,000</u>	<u><\$5,000</u>
Cash Funds	<5,000	<5,000
State Expenditures	Minimal workload increase.	
TABOR Impact	<\$5,000	<\$5,000
Appropriation Required: None.		
Future Year Impacts: Ongoing increase in state cash fund revenue and workload.		

Summary of Legislation

This bill makes changes to the language defining insurance fraud. It changes the statute of limitation for this offense, specifying that the period within which a prosecution must begin starts with discovery of the criminal act. The bill also adds insurance fraud to the list of crimes that may constitute racketeering activity.

Background and Comparable Crime

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. In the past three years, 68 people have been convicted of insurance fraud. Of these, 30 were female and 38 were male; 50 were Caucasian, 14 were African American, and 4 were Hispanic. Insurance fraud is either a class 1 misdemeanor or a class 5 felony, depending on the nature of the offense. There were 48 felony and 20 misdemeanor convictions. The penalty for a class 1 misdemeanor is 6 to 18 months in jail, a \$500 to \$5,000 fine, or both. The penalty for a class 5 felony is 1 to 3 years in prison, a fine of \$1,000 to \$100,000, or both. Any licensed insurance producer convicted of any type of insurance fraud loses his or her license to conduct business. Any person convicted of engaging in a pattern of racketeering activity commits a class 2 felony. The penalty for a class 2 felony is 8 to 24 years in prison, a fine of \$5,000 to \$1 million, or both. A person convicted of racketeering may face an additional fine of not more than \$25,000 or three times the gross value gained or lost as a result of the racketeering crime, plus court costs and costs of investigation and prosecution.

The Department of Law (DOL) investigates and prosecutes insurance fraud. Last year it received 1,895 referrals, opened 252 investigations, and filed 68 criminal cases. Based on information received from the Insurance Fraud Team at the DOL, the fiscal note assumes that the changes under the bill will result in a small increase in the number of investigations and that any increase in convictions will likely be for misdemeanors. Most felony cases involve multiple charges for other economic crimes, and the changes under the bill are not likely to drive an increase in new felony convictions.

State Revenue

Beginning in FY 2017-18, this bill is anticipated to increase state cash fund revenue by a minimal amount. The fiscal note assumes the bill will result in at least one new misdemeanor conviction per year, with the following effects on state revenue.

Criminal fines. 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 class 1 misdemeanor 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 criminal fines imposed in 2016, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

Court and administrative fees. This bill may also increase state fee revenue by a minimal amount, including the \$50 per offender per month probation supervision fee. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as genetic testing, victim compensation, late fees, and other administrative fees. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information.

TABOR Impact

This bill increases state revenue from fines and fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. 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 Expenditures

Beginning in FY 2017-18, this bill is anticipated to increase workload in the Department of Law, the Colorado Department of Labor and Employment, and the Judicial Department. It may also increase state General Fund expenditures in the Department of Corrections, as discussed below.

Department of Law. The DOL investigates and prosecutes insurance fraud cases. The bill widens the scope of insurance fraud and will likely result in an increase in workload for the DOL to open and prosecute additional cases. The fiscal note assumes that this increase in workload can be accomplished with existing appropriations.

Colorado Department of Labor and Employment (CDLE). The bill may increase workload slightly for the Unemployment Insurance Division of CDLE, which investigates unemployment insurance fraud. Any increase in workload is expected to be minimal and can be accomplished with existing appropriations.

Judicial Department. Workload for trial courts in the Judicial Department will increase as a result of any additional insurance fraud cases. To the extent that defendants are deemed indigent and appointed counsel by the state, workload and costs may increase for the Office of the State Public Defender and the Office of the Alternate Defense Counsel. No change in appropriations is required.

Department of Corrections (DOC). The fiscal note assumes that serious criminal cases involving felony insurance fraud or racketeering charges are already being prosecuted under current law and that the changes under the bill will not lead to new convictions to the DOC. However, should the bill increase the number of persons sentenced to the DOC, costs will increase. To the extent that convictions occur and offenders receive prison sentences, the fiscal note assumes the DOC will request additional appropriations through the annual budget process.

Local Government Impact

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

Criminal fine revenue. This bill is anticipated to increase revenue by a minimal amount for the City and County of Denver. The fine penalty for a class 1 misdemeanor is \$500 to \$5,000.

Court and administrative fees. Similar to the state, court and administrative fee revenue will increase. In the City and County of Denver, probation fee revenue is anticipated to increase by \$50 per month, per offender. Revenue is anticipated to increase by a minimal amount as a result of any court and administrative fees shared with the state.

County court expenditures. This bill increases workload for district attorneys to prosecute any new misdemeanors under the bill. To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 1 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 expenditures. The bill results in an increase in workload for the Denver County Court, managed and funded by the City and County of Denver, to try additional misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience a minimal increase in workload to supervise persons convicted under the bill.

Effective Date

The bill was signed into law by the Governor on March 23, 2017, and takes effect August 9, 2017, assuming no referendum petition is filed.

State and Local Government Contacts

Corrections
Judicial

District Attorneys
Labor

Information Technology
Law