



**Colorado
Legislative
Council
Staff**

HB17-1121

**REVISED
FISCAL NOTE**

(replaces fiscal note dated March 29, 2017)

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

Drafting Number: LLS 17-0634
Prime Sponsor(s): Rep. Buckner
Sen. Todd

Date: May 4, 2017
Bill Status: Senate SVMA
Fiscal Analyst: Clare Pramuk (303-866-2677)

BILL TOPIC: PATIENT SAFETY ACT

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019	FY 2019-2020	FY 2020-21
State Revenue	<\$5,000	up to \$5,129,602	up to \$2,619,647	up to \$739,811
General Fund	<5,000	<5,000	<5,000	<5,000
Cash Funds		5,124,602	2,614,647	734,811
State Expenditures	\$647,426	\$5,015,004	\$2,674,762	\$864,663
Cash Funds	626,126	4,567,817	2,350,078	732,736
Centrally Appropriated Costs	21,300	447,187	324,684	131,927
TABOR Impact	<\$5,000	up to \$3,723,226	Not estimated.	Not estimated.
FTE Position Change	0.9 FTE	30.8 FTE	16.7 FTE	5.7 FTE
Appropriation Required: \$626,126 - Multiple agencies (FY 2017-18).				
Future Year Impacts: Ongoing state revenue and expenditure increase.				

Summary of Legislation

Beginning July 1, 2018, the *reengrossed* bill requires current licensees and certificate holders and future applicants for initial licensure or certification to submit to a criminal history record check in the following professions:

- podiatrists;
- dentists and dental hygienists;
- medical doctors, physician assistants, and anesthesiologists;
- nurses;
- certified nurse aides;
- optometrists; and
- veterinarians.

After receiving the findings of the criminal history record check, a regulatory board in the Department of Regulatory Agencies (DORA) may deny licensure or certification if an applicant was convicted of, pled guilty or nolo contendere to, or received a deferred sentence, in any state, to any of the following charges:

- unlawful sexual behavior;
- the transfer of any controlled substance from a permissible to an illicit channel of distribution or use; or
- the transfer of a substance with effects similar to the effects of a controlled substance from a permissible to an illicit channel or distribution or use.

The bill repeals the current "Nurse Licensure Compact" and adopts the "Enhanced Nurse Licensure Compact". Applicants under the Enhanced Nurse Licensure Compact must comply with disclosure requirements under the "Medical Transparency Act of 2010". The new compact requires background checks and allows nurses under the compact to provide telehealth nursing services.

The bill eliminates the nurse alternative to discipline program. The bill also requires an employer to report any action that results in the termination of a certified nurse aide (CNA), including resignation in lieu of termination, to the Nursing Board within 30 days. An employer that fails to report such termination may be fined \$500 to \$5,000 per violation.

State Revenue

This bill will increase state cash revenue from fees by \$5,124,602 in FY 2018-19, \$2,614,647 in FY 2019-20, and \$734,811 in FY 2020-21. General Fund revenue from fines on employers who fail to report the termination of a CNA, will also increase, but is expected to be less than \$5,000 per year beginning in FY 2017-18.

Fee revenue to the CBI Identification Unit Cash Fund from criminal history record checks will be \$4,638,446 in FY 2018-19, \$2,366,603 in FY 2019-20, and \$665,101 in FY 2020-21. Of this, the Department of Public Safety (DPS) will pass through \$12 per background check to the FBI, totaling \$1,406,376 in FY 2018-19, \$718,944 in FY 2019-20, and \$202,056 in FY 2020-21, which will be exempt from TABOR.

Fee revenue to the Division of Professions and Occupations Cash Fund will be \$486,156 in FY 2018-19, \$248,044 in FY 2019-20 and \$69,709 in FY 2020-21 and thereafter. This increase will cover the expenditures generated by this bill.

Fee impact on healthcare providers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee estimates may differ from the actual fee that will be set administratively by DORA and DPS based on cash fund balance, estimated program costs, and the estimated number of licensees and permit holders subject to the fee. DPS has indicated in its FY 2017-18 budget request that the fee for criminal history record checks will be reduced from the current \$39.50 in FY 2017-18. If the fee for criminal history record checks is reduced prior to the passage of this bill, the fiscal note will be updated to reflect this reduction. DORA's fee increase of \$4.14 will be applied to 2-year licenses and certifications. Tables 1, 2, and 3 below identify the fee impact of this bill and the numbers of healthcare providers subject to the bill each year.

Table 1. Fee Impact on Healthcare Providers for FY 2018-19					
Type of Fee	New	Renewal	Fee	Additional Licensing Fee	Total Fee Impact
Physicians	1,665	20,500	\$39.50	\$4.14	\$967,281
Physician Assistants	370		39.50	4.14	16,147
Anesthesia Assistants	19		39.50	4.14	829
Dentists	356		39.50	4.14	15,536
Dental Hygienists	330		39.50	4.14	14,401
Registered Nurses*	7,145	31,000	39.50	4.14	1,664,648
Licensed Practical Nurses	784	7,700	39.50	4.14	370,242
Licensed Psychiatric Techs	20	975	39.50	4.14	43,422
Certified Nurse Aides	5,739	35,000	39.50	4.14	1,777,850
Veterinarians	294	3,950	39.50	4.14	185,208
Podiatrists	20	216	39.50	4.14	10,299
Optometrists	96	1,250	39.50	4.14	58,739
TOTAL	16,838	100,591			\$5,124,602

Table 2. Fee Impact on Healthcare Providers for FY 2019-20					
Type of Fee	New	Renewal	Background Check Fee	Additional Licensing Fee	Total Fee Impact
Physicians	1,665		\$39.50	\$4.14	\$72,661
Physician Assistants	370	2,779	39.50	4.14	137,422
Anesthesia Assistants	19	17	39.50	4.14	1,571
Dentists	356	4,873	39.50	4.14	228,194
Dental Hygienists	330	4,422	39.50	4.14	207,377
Registered Nurses*	7,145	30,771	39.50	4.14	1,654,654
Licensed Practical Nurses	784		39.50	4.14	34,214
Licensed Psychiatric Techs	20		39.50	4.14	873
Certified Nurse Aides	5,739		39.50	4.14	250,450
Veterinarians	294		39.50	4.14	12,830
Podiatrists	20	214	39.50	4.14	10,212
Optometrists	96		39.50	4.14	4,189
TOTAL	16,838	43,076			\$2,614,647

By FY 2020-21, the only healthcare providers subject to the criminal history record check will be applicants for new licensure or certification. This is estimated to be 16,838 per year as shown in Table 3.

Table 3. Fee Impact on Healthcare Providers for FY 2020-21					
Type of Fee	New	Renewal	Fee	Additional Licensing Fee	Total Fee Impact
Physicians	1,665	0	\$39.50	\$4.14	\$72,661
Physician Assistants	370	0	39.50	4.14	16,147
Anesthesia Assistants	19	0	39.50	4.14	829
Dentists	356	0	39.50	4.14	15,536
Dental Hygienists	330	0	39.50	4.14	14,401
Registered Nurses*	7,145	0	39.50	4.14	311,808
Licensed Practical Nurses	784	0	39.50	4.14	34,214
Licensed Psychiatric Techs	20	0	39.50	4.14	873
Certified Nurse Aides	5,739	0	39.50	4.14	250,450
Veterinarians	294	0	39.50	4.14	12,830
Podiatrists	20	0	39.50	4.14	873
Optometrists	96	0	39.50	4.14	4,189
TOTAL	16,838	0			\$734,811

TABOR Impact

This bill increases state cash fund revenue from fees and General Fund revenue from fines, 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. In years when the state collects revenue above the TABOR limit, the increase in General Fund revenue has no net impact on the amount of money available in the General Fund for the budget, as both revenue to the General Fund and the refund obligation increase by equal amounts. However, the increase in cash fund revenue increases the TABOR refund obligation, decreasing the amount of money available in the General Fund for the budget on a dollar-for-dollar basis. In future years when the state does not collect revenue above the TABOR limit, the bill's impact on General Fund revenue will increase money available for the General Fund budget.

State Expenditures

This bill increases state cash fund expenditures by \$647,426 and 0.9 FTE in FY 2017-18, \$5,015,004 and 30.8 FTE in FY 2018-19, \$2,674,762 and 16.7 FTE in FY 2019-20, and \$864,663 and 5.7 FTE in FY 2020-21. These expenditures are shown in Table 4 and described below.

Assumptions. The number of criminal history record checks performed annually by DPS as a result of this bill are based on the number of new and renewal license and certification applications processed by DORA. The follow-up costs for DORA assume that 3 percent of healthcare professionals will have something identified in their criminal history record checks that requires investigation. This equates to 3,523 in FY 2018-19, 1,797 in FY 2019-20, and 505 in FY 2020-21 and thereafter.

Table 4. Expenditures Under HB17-1121				
Cost Components	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Department of Public Safety	\$597,426	\$4,538,354	\$2,467,070	\$636,896
Personal Services	66,882	1,537,431	814,256	162,566
FTE	0.9 FTE	25.3 FTE	13.9 FTE	3.0 FTE
Identification Unit Operating Expenses		1,067,674	566,749	153,394
FBI Service Fees		1,406,376	718,944	202,056
Standard Operating Expenses	855	24,035	13,205	2,850
Network equipment	211,407			
Architect Services	40,000			
Demolition of Leased Space	20,000			
Remodeling Costs	232,290			
Leased space	4,692	117,300	65,688	14,076
Centrally Appropriated Costs*	21,300	385,538	288,228	101,954
Department of Regulatory Agencies	\$50,000	\$476,650	\$207,692	\$227,767
Personal Services		264,258	154,467	127,173
FTE - DORA		4.7 FTE	2.8 FTE	2.3 FTE
FTE - Law		0.8 FTE		0.4 FTE
Operating Expenses and Capital Outlay		13,871	16,769	2,185
Legal Services		136,872		68,436
Computer interface and programming	50,000			
Centrally Appropriated Costs*		61,649	36,456	29,973
BILL TOTAL	\$647,426	\$5,015,004	\$2,674,762	\$864,663

* Centrally appropriated costs are not included in the bill's appropriation.

Department of Public Safety. DPS will have an increase in expenditures of \$597,426 and 0.9 FTE in FY 2017-18, \$4,538,354 and 25.3 FTE in FY 2018-19, \$2,467,070 and 13.9 FTE in FY 2019-20, \$636,896 and 3.0 FTE in FY 2020-21 and thereafter from the CBI Identification Unit Cash Fund. The FTE for FY 2018-19 includes 10.4 FTE of temporary staff to meet the increased one-year demand for criminal history record checks. Costs include specialized fingerprinting equipment and for FBI background checks. Costs to adapt a commercial space beginning in the current fiscal year (architect services, demolition of leased space, remodeling, and network connections) and leased space costs are also included due to the large number of FTE required to implement the bill. DPS will pay for the information technology costs directly and the Office of Information Technology will provide consulting services within existing appropriations.

Department of Regulatory Agencies. DORA will have an increase in expenditures of \$50,000 in FY 2017-18, \$476,650 and 4.7 FTE in FY 2018-19, \$207,692 and 2.8 FTE in FY 2019-20, and \$227,767 and 2.3 FTE in FY 2020-21 and thereafter to investigate findings from the criminal history record checks. Staff will also collect reports from employers regarding CNA terminations. Expenditures will be paid from the Division of Professions and Occupations Cash Fund.

Table 5 shows the actions DORA is expected to take on criminal history background checks that require review including investigations and enforcement action. Legal services hours are required in FY 2018-19, FY 2019-20, and FY 2020-21 for cases that go to adjudication. This requires 1,440 hours and 0.8 FTE in FY 2018-19 and 720 hours and 0.4 FTE in FY 2019-20 and thereafter, at a rate of \$95.05 per hour.

Types of Investigations	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Criminal history checks to be reviewed		3,523	1,797	505
No action required		2,540	1,245	379
Cases opened		983	552	126
Short investigations		246	138	32
Full investigations		49	28	6
Expedited settlements		324	182	42
Adjudication		18	0	9

DORA also requires \$5,000 for software to interface the DPS background checks with the licensing system, \$30,000 to interface with the National Council of State Boards of Nursing to implement the Enhanced Nurse Licensure Compact, and \$15,000 for data conversion and migration to be reappropriated to the Office of Information Technology. These expenditures will occur in FY 2017-18.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 6.

Cost Components	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,952	\$169,235	\$145,056	\$44,982
Supplemental Employee Retirement Payments	5,723	102,685	86,803	25,962
Indirect Costs	7,625	175,267	92,825	60,983
TOTAL	\$21,300	\$447,187	\$324,684	\$131,927

Local Government Impact

This bill will increase the workload for local law enforcement to take fingerprints from the professionals subject to the bill. The impact will vary by location and the number of healthcare professionals in a jurisdiction requesting fingerprinting.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. The criminal history record check is required for licensees and certificate holders who did not submit a check through initial application upon the first renewal after July 1, 2018. Section 20, the Enhanced Nurse Licensure Compact, takes effect January 1, 2018.

State Appropriations

For FY 2017-18, the following appropriations are required:

- \$576,126 to the Department of Public Safety from the Identification Unit Cash Fund and an allocation of 0.9 FTE; and
- \$50,000 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund; of this amount, \$50,000 is reappropriated to the Office of Information Technology.

State and Local Government Contacts

Information Technology
Public Safety

Law
Regulatory Agencies