



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1302

FISCAL NOTE

Drafting Number: LLS 20-0729
Prime Sponsors: Rep. Lontine

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Bill Status: House Public Health
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Bill Topic: CAPS CHECK PROGRAM CHANGES

- Summary of Fiscal Impact:
- State Revenue (checked)
- State Expenditure (checked)
- State Transfer (unchecked)
- TABOR Refund (checked)
- Local Government (unchecked)
- Statutory Public Entity (unchecked)

This bill makes changes to reporting requirements for the mistreatment of at-risk adults, requires employers to provide access to their records to counties conducting investigations of allegations of mistreatment, and updates who must receive a background check through Colorado's Adult Protection Services data system. Starting in FY 2020-21, the bill will minimally increase state revenue and expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill makes changes to reporting requirements for the mistreatment of at-risk adults, requires employers to provide access to documents to counties conducting investigations of allegations of mistreatment, and updates who must receive a background check through Colorado's Adult Protection Services data system (CAPS).

Reporting requirements. Under current law, when a county adult protection service unit or a local law enforcement agency receives a report of known or suspected mistreatment of an at-risk adult, that agency must prepare a written report within 48 hours. This bill requires that agency to prepare the written report within 24 hours of receiving the allegation. The bill also allows the report of mistreatment to be disclosed without a court order when the disclosure is made to an employer or oversight agency that requested a background check of an employee. Disclosure may also occur when there is a criminal investigation into an allegation of mistreatment or when there is a review of a death by a coroner when the death is suspected to be related to mistreatment.

Investigations. The bill requires employers to allow access to persons, documents, and other evidence to a county adult protection service unit when there is an investigation into an allegation of mistreatment. This requirement does not apply to attorneys who are providing legal assistance to individuals who have a contract with an Area Agency on Aging. Failure to allow access to counties is a class 1 misdemeanor.

Background checks. The bill also requires that background checks of data in CAPS be conducted for an employer who is also an employee. If an employee is determined to have a substantiated finding of mistreatment, the employer and the employer's parent company or oversight agency will receive the results. Employers may also request CAPS checks on any volunteer who will provide direct care to an at-risk adult and requires the Office of the Public Guardianship to conduct CAPS checks on anyone hired as a guardian. Finally, the bill creates two class 1 misdemeanors for anyone who requests a CAPS check on someone who is not an employee or not being considered for employment, and when an individual knowingly provides inaccurate information for a CAPS background check.

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. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates new offenses of not allowing a county to investigate allegations of mistreatment of an at-risk adult; requesting a background check on someone who is not an employee; and providing false information to an employer requesting a background check, all of which are a class 1 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the following existing offenses:

- *Interfering with the State Auditor's examination.* Under current law, it is a class 2 misdemeanor for a director, employee, or agency to interfere with the State Auditor's examination of records.
- *Requesting a criminal history record information under false pretenses.* Under current law, it is a class 1 misdemeanor for a transferor of a firearm to knowingly request a criminal history record check under false pretenses.
- *Providing false information to a firearms dealer for a background check.* A person who provides false information affecting the records of a firearm dealer who performs background checks is a class 1 misdemeanor.

Between FY 2016-17 to FY 2018-19, zero offenders have been sentenced and convicted for any of the offenses listed above as their highest offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offenses under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Starting in FY 2020-21, this bill will increase state revenue by a minimal amount to the Records and Reports Cash Fund in the Department of Human Services (DHS) from additional CAPS background checks from employers who are also employees, employees of the Office of the Public Guardianship, and any volunteers who are in the direct care of an at-risk adult. The fiscal note assumes that the increase of CAPS checks will be minimal and that any increase in revenue will be minimal. For informational purposes, a CAPS background check fee is \$16.50. Any revenue to the Records and Reports Cash Fund is subject to TABOR.

State Expenditures

Starting in FY 2020-21, state expenditures in the Office of the Public Guardianship and workload in the DHS and the Colorado Department of Public Health and Environment (CDPHE) will increase as described below.

Office of Public Guardianship. In FY 2020-21, state expenditures in the Office of the Public Guardianship will increase by \$165 to provide background checks to its new employees and volunteers. The fiscal note assumes there will be 10 background checks conducted in the first fiscal year. For future years, expenditures for background checks will increase to the extent there are new employees or volunteers hired by the office. The fiscal note assumes that these costs can be handled within existing appropriations and no change in appropriation is required.

Department of Human Services. Starting in FY 2020-21, workload in the DHS will increase to conduct more background checks. The fiscal note assumes that this increase in workload will be minimal and no change in appropriation is required.

Department of Public Health and Environment. Starting in FY 2020-21, workload in the CDPHE will increase to evaluate any reports of mistreatment by employers who are employees and also do not report to a parent company. The fiscal note assumes that instances of employers who are also employees, have no parent company, and have a substantiated report of mistreatment of an at-risk adult will be minimal. Therefore, the fiscal note assumes that no change in appropriation is required. If there is a greater increase in the amount of times CDPHE has to evaluate reports, the fiscal note assumes the department will request additional funding through the annual budget process.

TABOR refund. The bill is expected to increase state General Fund obligations for TABOR refunds by a minimal amount in FY 2020-21 and in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Health Care Policy and Financing
Information Technology
Public Health and Environment

Human Services
Office of Public Guardianship