



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1355

FINAL FISCAL NOTE

Drafting Number:	LLS 20-0006	Date:	July 24, 2020
Prime Sponsors:	Rep. Duran; Mullica Sen. Bridges; Hansen	Bill Status:	Postponed Indefinitely
		Fiscal Analyst:	Aaron Carpenter 303-866-4918 Aaron.Carpenter@state.co.us

Bill Topic: **SECURE STORAGE OF FIREARMS**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill would have required firearm owners to securely store their firearms, federally licensed gun dealers to provide a locking device and other information about safe storage of firearms, and the Colorado Department of Public Health and Environment to conduct a public education campaign. The bill would have increased state and local revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2020-21, this bill would have required an appropriation of \$52,243 to multiple state agencies. See State Appropriations section.

Fiscal Note Status: This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 20-1355**

		FY 2020-21	FY 2021-22
Revenue		-	-
Expenditures	General Fund	\$52,243	\$50,576
	Centrally Appropriated	\$14,083	\$12,755
	Total	\$66,326	\$63,331
	Total FTE	0.6 FTE	0.5 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

This bill requires firearm owners to securely store their firearms, requires federally licensed gun dealers to provide a locking device and other information about safe storage of firearms, and requires the Colorado Department of Public Health and Environment (CDPHE) to conduct a public education campaign, as discussed further below.

Secure firearm storage requirement for individuals. This bill requires a person to store their firearms securely as follows: in a locked gun safe, in another secure container which a reasonable person would believe to be secure, or to install a locking device when a person knows, or reasonably should know, that a juvenile or a resident who is ineligible to possess a firearm can gain access to the firearm. This requirement does not apply when a person carries the firearm on their person or the firearm is an antique firearm. Failure to store the firearm is a class 2 misdemeanor.

Licensed gun dealer requirements. The bill also requires every licensed gun dealer to provide a locking device and an information sheet, developed by the Firearms Safe Storage Education Campaign (see below), with each firearm sold or transferred. Locking devices are not required for the transfer of an antique firearm. The licensed gun dealer must also post a notice warning of the potential punishment for failing to secure a firearm. A licensed gun dealer who does not provide a locking device, post the notice, or fails to provide an information sheet commits an unclassified misdemeanor punishable by a fine of up to \$500.

Annual report on firearms storage-related offenses. The bill requires the state court administrator to submit a report to the General Assembly providing the number of charges brought in each judicial district for the new offenses described above. Reporting must be done annually starting on July 31, 2021.

Firearms Safe Storage Education Campaign. The bill requires the CDPHE to develop and implement a Firearms Safe Storage Education Campaign (education campaign) to inform the public about the safe storage of firearms. The CDPHE must develop and provide materials to local law enforcement agencies and may provide information about programs that assist firearm owners with the cost of purchasing locking devices. The campaign must inform the public of:

- the offense of not securely storing a firearm;
- penalties related to providing a handgun to a juvenile; and
- the requirement that a licensed gun dealer provide a locking device.

In addition, the CDPHE must develop the notice to be displayed by licensed gun dealers and must make the notice available to the public electronically at no charge. The CDPHE must also create an information sheet, available to the public electronically at no charge, about the offenses of not securely storing a firearm and the requirement that licensed gun dealers provide a locking device. The bill limits how much the General Assembly may appropriate to the education program to \$50,000 annually and allows the CDPHE to seek, accept, and expend gifts, grants, and donations.

Income tax check-off. Finally, the bill creates a new voluntary tax-checkoff for the education campaign for six tax years, from 2021 to 2026.

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. The following sections outline data on crimes that are comparable to the offenses in this bill.

- ***Providing or permitting a juvenile to possess a firearm other than a handgun.*** This bill creates the new offense of failing to safely store a firearm, a class 2 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of providing or permitting a juvenile to possess a firearm other than a handgun as a comparable crime. In the last three fiscal years, 2 offenders have been convicted and sentenced for this existing offense. Of the persons convicted, both were White and male.
- ***Failing to post notice of selling alcohol to minors.*** This bill creates the new offense of not posting a notice, an unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failing to post a notice for selling alcohol to minors as a comparable crime. For the last three fiscal years, 0 persons have been convicted and sentenced for this existing offense.
- ***Failing to conduct a background check.*** This bill creates the new offense of a licensed gun dealer not providing a locking device when selling a firearm, an unclassified misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of failing to conduct a background check when selling a firearm as a comparable crime. For the last three fiscal years, 0 individuals have been convicted and sentenced for this existing offense.

Assumptions. The fiscal note makes the following assumptions about the criminal penalties in the bill.

- ***Failure to securely store firearm – class 2 misdemeanor.*** Based on data from the Colorado Violent Death Reporting System (CoVDRS), from 2008 to 2018, 288 individuals below the age of 20 were involved in suicides by firearms, approximately 26 individuals per year. Some of these incidents of firearm death or suicide may result from an individual failing to securely store a firearm. In addition, there are likely additional cases where a child is injured due to accidental or self-inflicted use of an unsecured firearm, or scenarios where a child gains access to a firearm and there are no injuries or death captured in the CoVDRS data. At this time, data are not available on these injuries or other cases of unsecured access by children to a firearm. Based on the available data, this fiscal note assumes that there will approximately be between 30 to 60 new criminal case filings per year for this offense.
- ***Failure to provide locking device or post notices – unclassified misdemeanors.*** Based on the comparable crime data listed above, the fiscal note assumes that most licensed gun dealers will comply with the requirements of the bill. Therefore, any increase in criminal cases for the unclassified misdemeanor offenses under the bill will be minimal.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Background

Income tax form check-off. The Colorado individual income tax return allows taxpayers to contribute to various listed organizations by donating a portion of their income tax refund or increasing the amount owed on their tax return. Legislation is required to create a new income tax check-off. Only 20 checkoff programs can appear on an individual income tax form each year. To ensure that the 20 check-off cap is not exceeded, the priority order system specifies that continued or renewed programs take precedence over newly created programs. Tax check-offs must meet a yearly minimum contribution of \$50,000 by the third year from when it first appeared on the form and in subsequent tax years to remain on the tax form. Contributions are calculated from January 1st through September 30th of each tax year. Thus, if a program that has appeared on the form is renewed or continued and has donations of at least \$50,000, the program remains on the form in the following tax year. Newly created programs can only appear on the tax form when an existing program is removed. The order of programs in the queue is determined by the date and time that the Governor signs each bill.

As of writing, there are no tax check-off programs in the queue and 18 contributions funds appeared on the 2019 Individual Income Tax Return.

State Revenue

Starting in FY 2020-21, the bill will increase state revenue from additional criminal fines and fees, a voluntary tax check-off contribution, and, potentially, gift, grants, and donations, as described below.

Criminal fines and fees. By creating new misdemeanor offenses the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2020-21, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 2 misdemeanor is \$250 to \$1,000, while the fine for the unclassified misdemeanors can be up to \$500. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

Income tax check-off. The amount of contributions to the Firearms Safe Storage Education Campaign Fund and the date by which the tax check-off will be available is uncertain. State revenue may increase in years the tax check-off is available on individual income tax returns. This bill will not affect General Fund revenue. Contributions are credited to the Firearms Safe Storage Education Campaign Fund and transferred to the CDPHE for the administration of the education campaign. These voluntary donations are exempt from TABOR provisions.

Gifts, grants, and donations. Starting in FY 2020-21, this bill may increase state revenue to the extent the CDPHE receives any gifts, grants, and donations for the education campaign. At the time of this writing, no source for gifts, grants, or donations have been identified. Gifts, grants, and donations are not subject to TABOR provisions.

State Expenditures

This bill will increase state General Fund expenditures by \$66,326 and 0.6 FTE in FY 2020-21 and by \$63,331 and 0.5 FTE in FY 2021-22 in the CDPHE and the Department of Revenue (DOR). Workload will also increase in the Department of Public Safety (DPS) and the Judicial Department. These impacts are shown in Table 2 and discussed below.

**Table 2
Expenditures Under HB 20-1355**

Cost Components	FY 2020-21	FY 2021-22
Department of Public Health and Environment		
Personal Services	\$39,463	\$35,876
Operating Expenses	\$810	\$675
Capital Outlay Costs	\$6,200	-
Education Materials to Agencies	\$1,630	\$1,630
Education Campaign	\$1,897	\$11,819
Centrally Appropriated Costs*	\$14,083	\$12,755
FTE- Personal Services	0.6 FTE	0.5 FTE
CDPHE (Subtotal)	\$64,083	\$62,755
Department of Revenue		
Programing Costs	\$1,125	-
Form Updates	\$542	-
Administration	\$576	\$576
DOR (Subtotal)	\$2,243	\$576
Total	\$66,326	\$63,331
Total FTE	0.6 FTE	0.5 FTE

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

Department of Public Health and Environment. Expenditures in the CDPHE will increase by \$64,083 and 0.6 FTE in FY 2020-21 and \$62,755 and 0.5 FTE in FY 2021-22 as described below.

- **Staffing costs.** It is estimated that 0.6 FTE is necessary to develop a website for the education campaign; create and revise materials; develop a notice for licensed gun dealers; provide technical assistance to law enforcement and licensed gun dealers; and develop and execute a communications plan. This FTE amount is reduced to 0.5 FTE in FY 2021-22. Staffing costs include operating expenses and capital outlay costs, as shown in Table 2. Costs in FY 2020-21 are prorated for the General Fund paydate shift.

- **Educational materials.** Starting in FY 2020-21, expenditures in the CDPHE will increase by \$1,630 to provide free educational materials to law enforcement agencies. This cost assumes that the majority of materials will be provided through existing initiatives available to law enforcement. In addition, the fiscal note assumes the CDPHE will mail 300 pieces of information to law enforcement at \$0.60 per piece; that there will be 500 brochures printed at a cost of \$0.50; and that there will 10,000 pages of information printed at \$0.12 per page. The fiscal note assumes that if the CDPHE must provide additional material, the department will request additional resources through the annual budget process.
- **Education campaign.** Expenditures in the CDPHE will increase by an estimated \$1,897 in FY 2020-21 and \$11,819 in FY 2021-22 to purchase media time to communicate safe storage information and to translate material developed by the CDPHE. This amount represents the remaining amount that the bill allows the General Assembly to appropriate to the CDPHE for the use of an education campaign. For informational purposes, public awareness campaigns in the CDPHE can cost up to \$3.2 million dollars per year. It is estimated purchasing digital or social ads for one year would cost \$50,000. A purchase of TV ads or billboards would increase costs more. Finally, an expanded campaign would require additional FTE to manage media contracts, guide creative development, approve communication plans, and ensure reporting. The fiscal note assumes that the expansiveness of the campaign will depend on the amount of money raised through the annual tax check-off contribution and any gifts, grants, and donations and that any additional FTE will be requested through the annual budget process.

Department of Revenue. Expenditures in the DOR for programming costs are expected to increase by \$2,243 in FY 2020-21. These costs are attributed to one-time Gentax programming, updating the optical character recognition software to recognize the changes to the state income tax form, staff time to administer the tax check-off, and updating tax forms. Programming costs are based on the FY 2019-20 contracted rate for changes to the Colorado Integrated Tax Architecture system. The only ongoing costs are for staff time to administer the tax credit.

For future years, the bill specifies that administrative costs are to be paid by an annual appropriation from the Firearms Safe Storage Education Campaign Fund. In the event that the moneys in the fund are insufficient to cover any future costs, this fiscal note assumes that the General Fund will offset the amount of any deficiency, which will be reimbursed once sufficient donations arrive.

Department of Public Safety. Starting in FY 2020-21, workload within the DPS will increase to work with the CDPHE in developing a public awareness campaign. The fiscal note assumes that this increase in workload will be minimal and no change in appropriation is required.

Judicial Department. This bill will increase costs and workload for the trial courts in the Judicial Department to process additional criminal case filings. To the extent that offenders are sentenced to probation, costs and workload in the Division of Probation will increase. Costs and workload may also increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Council. Overall, it is assumed that this workload can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes it will be addressed through the annual budget process.

In addition, workload for the State Court Administrator will increase to provide reports on the number of criminal cases created under the bill. The fiscal note assumes this workload can be accomplished within existing appropriations.

TABOR refunds. Under the June 2020 LCS Economic and Revenue Forecast, the state is not expected to collect revenue above the TABOR limit in either FY 2020-21 or FY 2021-22, and refund obligations are not anticipated for these years. This bill does not change these expectations concerning refunds to taxpayers.

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. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$14,083 in FY 2020-21 and \$12,755 in FY 2021-22.

Local Government Impact

Beginning in FY 2020-21, this bill is expected to increase local government revenue, costs, and workload as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys. The bill increases workload and costs for district attorneys to prosecute new misdemeanor offenses. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

County jails. Based on the assumptions listed in the Comparable Crime Analysis section, the bill may increase county jail costs. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2019 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$58.56.

Denver County Court. The bill increases revenue, costs and workload for the Denver County Court, which is managed and funded by the City and County of Denver, to try misdemeanor cases under the bill. Probation services in the Denver County Courts may also experience an increase in revenue, costs, and workload revenue to supervise persons convicted under the bill within Denver County.

Effective Date

This bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on June 3, 2020.

State Appropriations

For FY 2020-21, this bill requires the following General Fund appropriations:

- \$50,000 and 0.6 FTE to the Department of Public Health and Environment.; and
- \$2,243 to the Department of Revenue.

State and Local Government Contacts

Information Technology
Natural Resources
Revenue

Judicial
Public Health and Environment
Sheriffs

Municipalities
Public Safety