



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0445	Date:	January 30, 2024
Prime Sponsors:	Rep. Bacon; Bird Sen. Coleman	Bill Status:	House Business Affairs & Labor
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Bill Topic: EX-OFFENDERS PRACTICE IN REGULATED OCCUPATIONS

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

The bill establishes a uniform process for the consideration of criminal records in occupational licensure applications. Starting in FY 2024-25, the bill increases state revenue and expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$133,216 to the Department of Regulatory Agencies.

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

**Table 1
State Fiscal Impacts Under HB 24-1004**

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue	Cash Funds	\$170,000	\$170,000
	Total Revenue	\$170,000	\$170,000
Expenditures	Cash Funds	\$133,216	\$141,791
	Centrally Appropriated	\$21,903	\$27,492
	Total Expenditures	\$155,118	\$169,283
	Total FTE	1.4 FTE	1.7 FTE
Transfers		-	-
Other Budget Impacts	TABOR Impact	\$170,000	\$170,000

Summary of Legislation

The bill establishes a uniform process for the consideration of criminal records in occupational registration, certification, and licensure applications to professional regulators in the Department of Regulatory Agencies (DORA). Regulators are prohibited from automatically refusing to grant or renew a license based on an applicant's criminal record, and instead must consider each individual applicant's criminal record and present circumstances. Regulators in DORA are also prohibited from using vague terms related to morals or character as a standard when considering and making decisions on applications.

Process for considering criminal offenses. DOR may only consider criminal offenses if the applicant is convicted of:

- criminal sexual acts;
- criminal fraud or embezzlement;
- aggravated assault;
- aggravated abuse, neglect, or endangerment of a child or at-risk person;
- arson;
- carjacking;
- kidnapping; and
- manslaughter, homicide, or murder.

For offenses not in this list, regulators may not consider the conviction for three years from the date of conviction, end of incarceration, or end or parole period, whichever date is later, unless the applicant is convicted of another criminal offense in that period. After three years, regulators must consider an applicant with a criminal record in the same manner as an applicant without one, unless there are additional convictions.

Any ambiguity in consideration of criminal records must be resolved in favor of applicants, and regulators have the burden of proof to show denials are directly connected to information in a criminal record that would affect an applicant's potential performance in a profession.

Pre-application determination. Applicants with a criminal record may petition regulators for a pre-application determination of whether their criminal record would disqualify them from a license. Petitions must include certain information about criminal records, and responses from regulators must advise petitioners of any remedies for disqualification. Initial determinations do not prohibit regulators from a new determination at the time of application.

State Revenue

The bill increases state revenue to the Division of Professions and Occupations Cash Fund in DORA by about \$170,000 each year starting in FY 2024-25. This revenue is from increased fees on regulated professions to cover the estimated costs of this bill. It is assumed that half of this revenue is from fees charged to new professional applicants, and half of revenue is from fees charged to currently licensed professionals regulated by DORA. The exact amount of revenue may vary year-to-year based on the timing of renewals and new applications.

Fee impact on regulated professions. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, program costs, and the number of licensed individuals or applicants subject to the fee. The table below identifies the fee impact of this bill.

**Table 2
Fee Impact on Regulated Professions**

Fiscal Year	Population	Proposed Fee	Total Fee Impact
FY 2024-25	Existing Professionals	\$0.30	\$85,000
	New Applicants	\$2.90	\$85,000
FY 2024-25 Total			\$170,000
FY 2025-26	Existing Professionals	\$0.30	\$85,000
	New Applicants	\$2.90	\$85,000
FY 2025-26 Total			\$170,000

State Expenditures

The bill increases state expenditures in DORA by about \$155,000 in FY 2024-25, and by about \$170,000 beginning in FY 2025-26, paid from the Divisions of Professions and Occupations Cash Fund. Expenditures are detailed in Table 2 below.

**Table 3
Expenditures Under HB 24-1004**

	FY 2024-25	FY 2025-26
Department of Regulatory Agencies		
Personal Services	\$80,203	\$101,465
Operating Expenses	\$1,536	\$1,920
Capital Outlay Costs	\$6,670	-
Legal Services	\$44,807	\$38,406
Centrally Appropriated Costs ¹	\$21,903	\$27,492
FTE – Personal Services	1.2 FTE	1.5 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
Total Cost	\$155,118	\$169,283
Total FTE	1.4 FTE	1.7 FTE

DORA. DORA requires 1.5 FTE to process pre-application determination of criminal record petitions, of which 1.1 FTE is a technician responsible for intake of petitions, follow-up with applicants, preparation of materials for regulator review, and final correspondence to applicants. The remaining 0.4 FTE is program management staff who will review the final correspondence to applicants. These staffing amounts are based on an assumption that approximately 3,000 professional applicants will have a criminal record and submit a petition. The staff costs in FY 2024-25 are prorated for a September 1, 2024 start date, and include standard operating costs.

Legal services. DORA will require 300 hours of legal services each year for applicant appeals starting in FY 2024-25, assuming one license denial per year will be appealed and need to be litigated. In FY 2024-25 only, an additional 50 hours is also needed for rulemaking. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

Department of Personnel and Administration. The Office of Administrative Courts in the Department of Personnel and Administration (DPA) may have an increase in referred cases based on licensure denials. Any increase is expected to be minimal, and any change will be accounted for through the annual budget process.

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 shown in Table 2.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2023 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2025-26. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to licensure applications on or after this date.

State Appropriations

For FY 2024-25, the bill requires an appropriation of \$133,216 from the Division of Professions and Occupations Cash Fund to the Department of Regulatory Agencies, and 1.2 FTE. Of this amount, \$44,807 is reappropriated to the Department of Law, with an additional 0.2 FTE.

State and Local Government Contacts

Corrections
Personnel

Judicial
Regulatory Agencies

Law

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).