



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 29, 2024)

Table with 2 columns: Field (Drafting Number, Prime Sponsors, Date, Bill Status, Fiscal Analyst) and Value (LLS 24-0945, Rep. Herod; Bacon, May 2, 2024, House Third Reading, Aaron Carpenter | 303-866-4918 aaron.carpenter@coleg.gov)

Bill Topic: LAW ENFORCEMENT MISCONDUCT

Table with 2 columns: Field (Summary of Fiscal Impact) and Value (checkboxes for State Revenue, State Expenditure, State Transfer, TABOR Refund, Local Government, Statutory Public Entity)

The bill provides additional protection for whistleblower peace officers and prohibits law enforcement agencies from charging for body-worn camera footage. The bill increases state and local workload and decreases local revenue.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This revised fiscal note reflects the engrossed bill.

Summary of Legislation

The bill requires the suspension of a peace officer's Peace Officer Standards and Training (POST) certification in cases where an officer retaliates against another officer; expands the list of actions that constitute retaliation against a whistleblower; prohibits law enforcement agencies from charging a fee to release certain recordings; and requests the Executive Committee of Legislative Council to appoint a working group to address protecting law enforcement whistleblowers.

Revocation of POST certification in cases of retaliation. The POST Board is required to suspend or revoke POST certification in cases where a peace officer retaliated against or caused a peace officer's employer to retaliate against another peace officer who disclosed information about a peace officer who allegedly endangered public health or safety, violated law or policy, or retaliated against another officer for disclosing that information.

Law enforcement whistleblower protections. The bill expands the list of actions that constitute retaliation against a law enforcement whistleblower to include suspension; creating a hostile work environment; subjecting the officer to corrective action; or reprimanding, poorly evaluating, laying off, reducing work hours, or adversely affecting future employment opportunities.

The bill allows a peace officer to use evidence of the retaliation to appeal or remediate any adverse employment action. If an officer proves by a preponderance of the evidence that the officer was unlawfully retaliated against, the peace officer's employing agency must remediate the action, including reinstatement. If the adverse action involved revocation or suspension of Peace Officer Standards and Training (POST) certification, the employing agency must notify the POST Board to reverse the action.

Prohibition of certain fees. The bill prohibits law enforcement agencies from charging a fee to release unedited video and/or audio recordings of officer-involved shootings or incidents involving alleged peace officer misconduct from body-worn cameras, dash cameras, or otherwise collected through investigation. The bill requires recordings to be released within 45 days of the request.

Working group. Finally, the legislative declaration of the bill requests that the Executive Committee of Legislative Council appoint a working group to address protecting law enforcement whistleblowers.

State Expenditures

Starting in FY 2024-25, the bill increases workload in the Department of Law, state agencies employing peace officers, and potentially the Legislative Department.

Department of Law. POST Board workload may increase to the extent determinations are required on whether a POST certification should be revoked or reinstated related to unlawful retaliation. The fiscal note assumes that this workload can be accomplished within existing appropriations.

All state agencies. All state agencies that employ POST-certified law enforcement officers will have a minimal workload increase to train officers on the bill's provisions, and expedite the release of recordings. These agencies include the Departments of Corrections, Human Services, Law, Natural Resources, Public Safety, Regulatory Agencies, and Revenue and institutions of higher education.

Judicial Department, the State Personnel Board, and Civil Rights Commission. To the extent law enforcement whistleblowers file additional employment related legal actions due to the expanded protections under the bill, workload may increase in the trial courts in the Judicial Department, the State Personnel Board in the Department of Personnel and Administration, and for the Colorado Civil Rights Commission in the Department of Regulatory Agencies to hear these cases. Generally, retaliation against whistleblowers is already prohibited conduct and a potential cause of action against an employer, so any increase is assumed to be minimal and no change in appropriations is required.

Local Government and Statutory Public Entity

Similar to the state, local and statutory public entity law enforcement will have a workload increase to train officers on the bill's provisions and expedite the release of recordings. To the extent local law enforcement agencies are charging requestors for recordings, the bill will decrease revenue to those agencies. On a statewide basis, lost local revenue is estimated to be in the tens of thousands of dollars.

Departmental Difference

Department of Public Safety. The Department of Public Safety estimates that the bill will increase General Fund expenditures by about \$4.3 million and 24.0 FTE in FY 2024-25 and \$3.7 million and 24.0 FTE in FY 2025-26. This estimate includes 4.0 FTE state troopers and 4.0 FTE technicians for investigations at the Colorado State Patrol (CSP), and 16.0 FTE agents for the Colorado Bureau of Investigation (CBI) to assist local law enforcement in investigations. First-year costs also include an information technology system update. The department's estimate was originally based on an increase of complaints received for peace officer misconduct that would be required to be investigated. The bill was amended to change the term to unlawful conduct and then Amendment L.006 removed this requirement entirely. Therefore, the fiscal note does not include additional staff and appropriations to the DPS, based on the changes under Amendment L.006 and the assumption that the state law enforcement agencies will comply with the bill and not engage in whistleblower retaliation. Further, it is assumed that complaints alleging whistleblower retaliation are currently being investigated. For informational purposes, according to State Personnel Board reporting, there have been 6 whistleblower claims brought against the DPS in the last 3 years, or about 2 per year. If the Department of Public Safety retaliates against whistleblowers or fails to investigate these allegations, it may request additional resources through the annual budget process to address these issues.

Other departments. While affected state agencies were canvassed regarding this bill as amended by L.006, due to time constraints not all agencies have provided a response. Therefore, it is unknown if the Department of Law will have a departmental difference with this fiscal note estimate. Based on responses received thus far, it is preliminarily assumed that the department will concur with this fiscal note assessment, as departmental differences noted in prior fiscal notes focused on provisions of the bill that have been removed by L.006—primarily investigations of police misconduct for unlawful activities and POST Board auditing. Should any other department provide a differing estimate, the fiscal note will be updated to include detail on that department's assessment of the bill.

Technical Note

The bill has a statement in the legislative declaration requesting that the Executive Committee of Legislative Council appoint a working group to address protecting law enforcement whistleblowers. The legislative declaration of a bill is non-binding, so the Executive Committee has no formal mechanism to create a working group.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Counties	Higher Education	Law
Legislative Council Staff	Municipalities	Natural Resources
Personnel	Public Safety	Revenue

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](#).