

CHAPTER 46

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 13-1228

BY REPRESENTATIVE(S) Court, Duran, Ferrandino, Fields, Fischer, Foote, Hullinghorst, Levy, McCann, Melton, Moreno, Pabon, Peniston, Rosenthal, Ryden, Salazar, Schafer, Williams, Buckner, Kagan, Labuda;
also SENATOR(S) Heath, Aguilar, Carroll, Giron, Guzman, Hodge, Hudak, Jones, Newell, Nicholson, Steadman, Todd, Ulibarri, Morse.

AN ACT

CONCERNING REQUIRING THE COLORADO BUREAU OF INVESTIGATION TO RECOUP THE COST OF PERFORMING AN INSTANT CRIMINAL BACKGROUND CHECK PRIOR TO THE TRANSFER OF A FIREARM, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-33.5-424, **add** (3.5) as follows:

24-33.5-424. National instant criminal background check system - state point of contact - fee - grounds for denial of firearm transfer - appeal - rule-making - unlawful acts - fund created - repeal. (3.5) (a) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3.5), THE BUREAU SHALL IMPOSE A FEE FOR PERFORMING AN INSTANT CRIMINAL BACKGROUND CHECK PURSUANT TO THIS SECTION. THE AMOUNT OF THE FEE SHALL NOT EXCEED THE TOTAL AMOUNT OF DIRECT AND INDIRECT COSTS INCURRED BY THE BUREAU IN PERFORMING THE BACKGROUND CHECK.

(b) THE BUREAU SHALL TRANSMIT ALL MONEYS COLLECTED PURSUANT TO THIS SUBSECTION (3.5) TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE INSTANT CRIMINAL BACKGROUND CHECK CASH FUND, WHICH FUND IS HEREBY CREATED AND REFERRED TO IN THIS SUBSECTION (3.5) AS THE "FUND".

(c) THE MONEYS IN THE FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE DIRECT COSTS ASSOCIATED WITH PERFORMING BACKGROUND CHECKS PURSUANT TO THIS SECTION. THE STATE TREASURER MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT ANY INTEREST AND

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE FUND TO THE FUND.

(d) ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED TO ANY OTHER FUND. TO THE EXTENT PRACTICABLE, THE BUREAU SHALL USE ANY SUCH REMAINING FUNDS TO REDUCE THE AMOUNT OF THE FEE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5).

(e) THE BUREAU IS AUTHORIZED TO CONTRACT WITH A PUBLIC OR PRIVATE ENTITY FOR SERVICES RELATED TO THE COLLECTION OF THE FEE DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3.5).

(f) ON JANUARY 15, 2014, AND ON JANUARY 15 OF EACH CALENDAR YEAR THEREAFTER, THE BUREAU SHALL REPORT TO THE JOINT BUDGET COMMITTEE CONCERNING:

(I) THE NUMBER OF FULL-TIME EMPLOYEES USED BY THE BUREAU IN THE PRECEDING YEAR FOR THE PURPOSE OF PERFORMING BACKGROUND CHECKS PURSUANT TO THIS SECTION; AND

(II) THE CALCULATIONS USED BY THE BUREAU TO DETERMINE THE AMOUNT OF THE FEE IMPOSED PURSUANT TO THIS SUBSECTION (3.5).

(g) (I) THE BUREAU IS AUTHORIZED TO CONTINUE USING GENERAL FUND MONEYS APPROPRIATED TO THE BUREAU FOR THE 2013-14 FISCAL YEAR FOR THE PURPOSE OF PERFORMING CRIMINAL BACKGROUND CHECKS PURSUANT TO THIS SECTION UNTIL THE SOONER OF:

(A) A DATE SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (f); OR

(B) A DATE UPON WHICH SUFFICIENT MONEYS EXIST WITHIN THE FUND TO PAY FOR THE PERFORMING OF CRIMINAL BACKGROUND CHECKS PURSUANT TO THIS SECTION.

(II) THIS PARAGRAPH (f) IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 2. Appropriation - adjustments to 2013 long bill. (1) For the implementation of this act, appropriations made in the annual general appropriation act to the department of public safety for the fiscal year beginning July 1, 2013, are adjusted as follow:

(a) The general fund appropriation for the executive director's office is decreased by \$107,739.

(b) The general fund appropriation for the state point of contact-national instant criminal background check program is decreased by \$924,637 and 15.0 FTE.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the instant criminal background check cash fund created in section 24-33.5-424 (3.5) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 2013, the sum of

\$1,032,376 and 15.0 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

- (a) \$107,739 for the executive director's office; and
- (b) \$924,637 and 15.0 FTE for the state point of contact-national instant criminal background check program.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 20, 2013