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HB 19-1166

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 7, 2019)

Drafting Number: LLS 19-0233
Prime Sponsors: Rep. Singer
Sen. Zenzinger

Date: March 11, 2019
Bill Status: Senate Judiciary
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Bill Topic: NAME-BASED CRIMINAL HISTORY RECORD CHECKS

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue (<i>potential</i>)	<input checked="" 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 requires that when the results of a fingerprint-based criminal history background check for certain applicants, employees, or volunteers reveals a record of arrest without a final disposition of the case, an applicant must submit to a name-based criminal history background check. The bill may increase state revenues and state and local expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

Under current law, applicants for certain licenses, employment, or volunteer activities must undergo a fingerprint-based criminal history background check. This bill adds the requirement that when the results of a fingerprint-based criminal history background check reveal a record of arrest without a final disposition of the case, the applicant must submit to a name-based criminal history background check.

Background

Currently, fingerprint-based criminal history background checks are required for applicants for numerous licenses, employment positions, or volunteer activities, including, but not limited to: medical professionals; attorneys; mental health providers; teachers; nursing care facility employees; child care providers; state licensing employees; and county employees with access to federal tax information.

Assumptions

Name-based criminal history background checks can be performed by the Colorado Bureau of Investigation (CBI) or a private vendor. This fiscal note assumes that fees for these name-based background checks are either collected from the applicant, employee, or volunteer by the state

agency and passed through to the CBI or private vendor, or paid for directly by the applicant, employee, or volunteer. In addition, this fiscal note assumes that the background check is required only upon initial application or licensure and is not required for renewal.

State Revenue

Beginning in FY 2019-20, to the extent that the number of name-based criminal history background check performed by CBI increases, state revenue to the CBI Identification Unit Cash Fund in the Department of Public Safety will increase. CBI currently provides online name-based criminal history background check service for \$6.85 per background check.

In addition, state revenue may increase for state agencies, such as the Department of Human Services, that collect fees for the name-based background checks from an applicant, employee, or volunteer and pass the fee through to the CBI or private vendor.

State Expenditures

Beginning in FY 2019-20, the bill will increase workload for several state agencies.

Department of Education. Workload will increase in the Department of Education to review name-based criminal history background checks for various applicants or licensees. This increase can be accomplished within existing resources. If additional resources are required, they will be requested through the annual budget process.

Department of Law. The Department of Law will have a minimal workload increase to review name-based criminal history background checks for debt settlement and debt management companies. This increase can be accomplished within existing resources.

Department of Human Services. The Department of Human Services will have a workload increase to review name-based criminal history background checks for various programs. Department expenditures may also increase to cover the costs of name-based criminal history background checks for employees working with vulnerable persons. This increase can be accomplished within existing resources.

Department of Public Health and Environment. The Department of Public Health and Environment will have a minimal workload increase to update rules and review name-based criminal history background checks for various programs. This increase can be accomplished within existing resources.

Department of Public Safety. To the extent that CBI conducts more name-based criminal history background checks, workload will increase for the CBI in the Department of Public Safety. If additional resources are required to conduct name-based criminal history background checks, they will be requested through the annual budget process.

Department of Regulatory Agencies. The Department of Regulatory Agencies will have a workload increase to update rules and review name-based criminal history background checks for various employees and applicants for regulatory programs. This increase can be accomplished within existing resources.

Department of Revenue. The Department of Revenue will have a minimal workload increase to conduct name-based criminal history background checks concurrently with fingerprint-based criminal history background checks for various applicants and employees. This increase can be accomplished within existing resources.

Judicial Branch. The Judicial Branch will have a minimal workload increase to review name-based criminal history background checks for various guardians and conservators. This increase can be accomplished within existing resources.

TABOR refunds. The bill may increase state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government and School District Impact

To the extent that local governments or school districts reimburse the cost of background checks for employees, local government and school district expenditures may increase. Similar to the state, it is assumed that the cost of the name-based criminal history background check will be covered by the local government applicant or employee, not local government or school district.

Effective Date

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

Departmental Difference

The Colorado Department of Education estimates that the bill will increase department expenditures by \$57,660 and 1.0 FTE in FY 2019-20 and \$57,684 and 1.0 FTE in FY 2020-21. The estimate assumes that the department will need additional staff to research, track, and record criminal histories for offenses that do not exclude someone from obtaining a license, along with monitoring recent arrests and requesting documents from other court jurisdictions. This fiscal note assumes that background checks are required only upon initial application for licensure and that any workload increase in the Department of Education to review name-based criminal history background checks for applicants can be accomplished within existing resources.

State and Local Government Contacts

Counties	District Attorneys	Education
Human Services	Information Technology	Judicial
Law	Municipalities	Public Health and Environment
Public Safety	Regulatory Agencies	Revenue
School Districts		