



**Colorado
Legislative
Council
Staff**

Bill 3

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 18-0299
Prime Sponsor(s):

Date: October 31, 2017
Bill Status: Sentencing in the Criminal Justice System Interim Study Committee Bill Request

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BILL TOPIC: RELIEF FROM COLLATERAL CONSEQUENCES

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue	Minimal revenue increase. See State Revenue section.	
State Expenditures	Minimal workload and expenditure increase. See State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal revenue, workload, and expenditure increase		

Summary of Legislation

Under current law, courts may consider a challenge to a judgment or conviction which has otherwise become final in the normal appellate review process. The legal authority for this post-conviction relief, known as collateral relief, is found in multiple sections of Colorado statute. These laws allow for collateral relief in instances when a court orders an alternative sentence, probation, or community corrections.

This bill, ***requested by the Sentencing in the Criminal Justice System Interim Study Committee***, combines these collateral relief provisions into one section in statute, and authorizes a court to enter an order for collateral relief at the same time it sentences a defendant, or at any time thereafter. Any application for collateral relief after a sentence has been imposed must include a fingerprint-based criminal history record check, the filing fee required under current law, and an additional \$30 to cover the actual costs related to the application. A court may waive the filing fees if it finds that a defendant / applicant is indigent. The bill adds the authority for a juvenile court to enter an order for collateral relief using the same process as criminal courts.

Under current law, a state or local agency considers an individual's criminal record when making a determination of moral character in the issuance of a license or permit. This bill authorizes the use of a criminal history background check to determine an applicant's professional qualifications, and not to make a determination of the applicant's moral character. An issuing authority may not deny or revoke a license or permit, or refuse to extend an offer of employment, if an individual has been arrested but not charged, has been convicted but pardoned, had the conviction record sealed, or had a collateral order entered concerning the conviction.

The bill authorizes the Department of Regulatory Agencies (DORA) to issue a conditional license to a person who has a criminal conviction, and requires that the department delete and keep confidential the conditional designation if the person has no subsequent conviction when applying for renewal, or within two years, unless the department determines that the conditional designation remains necessary.

Additionally, this bill modifies the data collection required for sunset reviews prepared by DORA; specifies that it is a discriminatory or unfair employment practice to inquire about or to take adverse action based on an arrest that did not result in a charge or a conviction, or that has been sealed or expunged; and, establishes a preference for bidders for state contracts who comply with the state employment practices related to criminal backgrounds.

State Revenue

Beginning in FY 2018-19, the bill increases state cash fund revenue by a minimal amount in Judicial, the Department of Public Safety, and the Department of Regulatory Agencies.

Collateral relief application fee. In addition to fees for filing, and a fee to conduct background checks, an applicant for collateral relief after a sentence must also pay an additional \$30 to cover related court application costs.

Criminal history background check. A fingerprint based criminal history background check is required for each petition for collateral relief received. The total number of petitions for collateral relief are expected to increase, therefore increasing state revenue from background checks. It is not currently known how many petitions will be submitted annually; however, overall fee revenue from background checks is anticipated to be minimal. Fee revenue to the Colorado Bureau of Investigations Identification Unit Cash Fund from criminal history record checks will increase; however, the Department of Public Safety (DPS) will pass through \$12 per background check to the Federal Bureau of Investigations.

Division of Professions and Occupations. The bill permits the DORA to create conditional licenses for persons with criminal convictions. To the extent that the department creates a new conditional license type, fee revenue in the division will increase.

State Expenditures

Judicial. The bill establishes a means for judicial relief of collateral consequences resulting from an adjudication or conviction. The probation office will be required to add collateral relief language to court ordered pre-sentence investigation reports for both adults and juveniles, with the exception of certain felony cases, crimes of violence, and sexual offenses which require the defendant to register as a sex offender. The necessary changes to these pre-sentence investigation reports minimally increases workload for Judicial, but does not require additional appropriations to implement.

Trial Courts. The trial courts already have a process for collateral relief; any workload modifications required to comport with the new law will be minimal.

Office of the Child's Representative. The bill may increase the hours per case in which a guardian ad litem is appointed by the courts. This increase in costs and workload can be accomplished within existing appropriations.

Department of Regulatory Affairs (DORA). The bill authorizes DORA to issue conditional licenses to a person with a criminal conviction under certain circumstances. The department already has a process for issuing provisional licenses, and given the historically low amount of applications, the changes authorized by this bill are not anticipated to significantly affect workload. For this reason, DORA requires no additional appropriation to implement the bill.

Department of Public Safety. The Colorado Bureau of Investigations in the Department of Public Safety will have a minimal workload and expenditure increase to process fingerprint based criminal history background checks.

Effective Date

The bill takes effect July 1, 2018.

State and Local Government Contacts

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