



**Colorado
Legislative
Council
Staff**

HB17-1071

FISCAL NOTE

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

Drafting Number: LLS 17-0632 **Date:** January 25, 2017
Prime Sponsor(s): Rep. Wist; Lee **Bill Status:** House Judiciary
 Sen. Gardner; Kagan **Fiscal Analyst:** Kerry White (303-866-3469)

BILL TOPIC: REFUND MONETARY AMOUNTS AFTER VACATED CONVICTION

Fiscal Impact Summary	FY 2016-2017 <i>(current year)</i>	FY 2017-2018	FY 2018-2019
State Revenue			
State Expenditures	Expenditure increase.		
Appropriation Required: None.			
Future Year Impacts: Ongoing expenditure increase.			

Summary of Legislation

This bill creates a process to issue refunds to a person who paid court-ordered fines, fees, costs, surcharges, restitution, interest, or other monetary amounts for a criminal conviction when the following conditions are met:

- the conviction is vacated after postconviction proceedings or overturned on appeal and the conviction is dismissed; or
- the person is acquitted after a new trial.

If a person paid court-ordered restitution and interest related to the criminal conviction, the restitution order must have been reversed on appeal or the amount of the restitution lowered in order to be eligible for a refund. Nothing in the bill requires a victim to repay restitution received.

A person must file a written motion with the court in which the conviction was entered within one year of becoming eligible for a refund. The person filing the motion must prove that the amounts in question were paid and that he or she is eligible for a refund. If the court finds that the conditions for a refund are met, it is required to issue an order directing the State Court Administrator to issue a refund within 28 days.

Background

According to the Judicial Department, the Colorado Court of Appeals overturned 45 criminal cases on direct appeal in FY 2013-14. Citing a legal opinion in the case *People v. Nelson*, the department notes that going back to 2005, the annual number of overturned cases has not exceeded 67. It is unknown how many of these cases involved dismissal of charges or acquittals upon retrial. No data on the number of restitution order reversals are currently available.

State Expenditures

Beginning in the current FY 2016-17, this bill will increase workload and expenditures for the Judicial Department. Trial courts will be required to consider any motions for refunds; this workload increase is anticipated to be minimal. Additionally, costs will increase for the State Court Administrator to issue eligible refunds. As of this writing, there are no data from which to estimate the number and amount of potential refunds. This analysis assumes that the Judicial Department will be required to request additional appropriations through the budget process and these costs will be paid from the General Fund.

Local Government Impact

Similar to the state, this bill increases workload for municipal courts and the Denver County Court, which are funded and administered independently from the state and also hear criminal cases, to consider motions for refunds. This workload impact is anticipated to be minimal.

Technical Note

The bill requires the State Court Administrator within the Judicial Department to issue refunds for motions that are approved by a district court. The bill does not create a process for reimbursements resulting from cases at a state-administered county court, the Denver County court, or a municipal court, although persons can petition these entities for a refund.

Effective Date

The bill takes effect upon passage and applies to convictions vacated and restitution orders reversed on or after this date.

State and Local Government Contacts

Counties
Judicial

District Attorneys
Municipalities

Information Technology