



**Colorado
Legislative
Council
Staff**

HB17-1075

FISCAL NOTE

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

Drafting Number: LLS 17-0383
Prime Sponsor(s): Rep. Gray

Date: January 26, 2017
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: ARREST OF AN OFFENDER ON A DEFERRED SENTENCE

Summary of Legislation

This bill grants a probation officer the authority to arrest a defendant who has been granted a deferred judgment and sentence if the probation officer has a warrant for the defendant's arrest or the defendant commits a criminal offense in the presence of the probation officer. A probation officer may also arrest a defendant when he or she has probable cause to believe:

- a warrant has been issued in Colorado or another state for the defendant's arrest due to a criminal offense or a violation of the conditions of the defendant's deferred sentence;
- the defendant has committed a crime; or
- the defendant has violated the conditions of his or her deferred sentence and may leave the state, refuse to appear in court, cause physical harm to oneself or another person, or commit a crime.

The bill removes language in current law which allows a probation officer to arrest a probationer who has been convicted of any felony, except for a class 1 felony, for a positive drug test.

Background

Currently, a probation officer does not have the authority to arrest a defendant who has been granted a deferred judgment and sentence. If there is cause for arrest, the probation officer must seek a warrant from the court and local law enforcement must execute the arrest. Probation officers do have authority to arrest all other probationers, although in practice these arrests are made by local law enforcement in the presence of the probation officer.

Assessment

This bill allows a probation officer, with or without local law enforcement, to make a warrantless arrest of a person on a deferred judgment and sentence provided certain conditions are met. Because the amount of work required to prepare a warrant request prior to the arrest is the same as needed to prepare an affidavit after the arrest, this bill is assessed as having no fiscal impact. The fiscal note assumes that probation officers will continue to accompany local law enforcement in making arrests and the effect of this bill is to expedite the arrest process.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Counties
Judicial

District Attorneys
Law

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