



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Final Fiscal Note

**Drafting Number:** LLS 21-0527  
**Prime Sponsors:** Rep. McKean

**Date:** June 14, 2021  
**Bill Status:** Postponed Indefinitely  
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**Bill Topic:** **GUN TRANSFER BACKGROUND CHECK PERMIT EXEMPTION**

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue ( <i>conditional</i> )	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure ( <i>conditional</i> )	<input checked="" type="checkbox"/> Local Government ( <i>conditional</i> )
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

Conditional upon federal government approval, the bill would have allowed individuals to purchase a firearm without a background check when an individual has a conceal handgun permit. The bill would have increased state and local revenue and expenditures on an ongoing basis beginning in FY 2021-22.

**Appropriation Summary:** For FY 2021-22, the bill would have required a \$586,256 appropriation to the Department of Public Safety.

**Fiscal Note Status:** This fiscal note reflects the introduced bill. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

**Table 1**  
**State Fiscal Impacts Under HB 21-1082**

		Budget Year FY 2021-22	Out Year FY 2022-23
<b>Revenue</b>	Cash Funds	\$515,813	\$687,750
	<b>Total Revenue</b>	<b>\$515,813</b>	<b>\$687,750</b>
<b>Expenditures</b>	Cash Funds	\$586,256	\$755,092
	Centrally Appropriated	\$82,698	\$108,191
	<b>Total Expenditures</b>	<b>\$668,953</b>	<b>\$863,283</b>
	<b>Total FTE</b>	<b>0.7 FTE</b>	<b>1.0 FTE</b>
<b>Transfers</b>		-	-
<b>TABOR Refund</b>		-	-

## Summary of Legislation

The bill allows individuals that have a valid Colorado concealed handgun permit and have attested that they have not been convicted of a crime of domestic violence, have not been treated for a mental health condition, or is ineligible to possess a firearm since receiving the permit, to forgo a firearms transfer background check (called InstaCheck). This applies to any sale or transfer from licensed gun dealers, private sellers, and gun shows. Misrepresentation of a valid permit or required information is a class 1 misdemeanor. The alternative to an InstaCheck background check takes effect after the Federal Bureau of Alcohol Tobacco and Firearms and Explosives (ATF) approves permit under the federal Brady Handgun Violence Prevention Act (the Brady Law).

The bill also updates requirements concerning conceal handgun permits. First, the bill requires sheriffs to not approve a conceal handgun permit application or renewal if they have not received the results of a fingerprint background check within 90 days. If the sheriff receives the results after 90 days, the sheriff must either issue or deny a permit within three days. Finally, this bill requires all retired police officers to apply and have a background check conducted on them before they can receive a concealed handgun permit.

## Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

**Prior conviction data.** This bill creates the new offense of misrepresenting information on purchasing a firearm with a concealed handgun permit, a class 1 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of willfully making any false or fictitious statement to deceive the transfer of a firearm as a comparable crime. From FY 2017-18 to FY 2019-20, 29 individuals have been convicted and sentenced for this existing offense. Of the persons convicted, 26 were male and 3 were female. Demographically, 26 were White, 2 were Hispanic, and 1 did not have a race identified. Of those sentenced, 7 were sentenced to jail for an average of 111 days.

**Assumptions.** This analysis assumes that there will be approximately 9 criminal case filings per year for the offense under the bill and that 2 offenders per year will be convicted and sentenced to county jail. Because the bill is not expected to have a tangible impact on criminal justice-related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## Assumptions

Under the Brady Law, certain permits issued by states qualify as alternatives to the InstaCheck requirements to purchase a firearm. According to the ATF, 25 states have a permit type that qualifies as an alternative to a firearms background check; therefore, the fiscal note assumes the state will receive federal approval.

The fiscal note also makes the following assumptions:

**New conceal carry permit.** There will be an increase of 30,500 new conceal handgun permit background checks per year from individuals forgoing InstaCheck firearm background checks. This represents a 100 percent increase in the number of current new conceal carry permit background checks.

**Reduction in InstaCheck background checks.** The bill will reduce InstaCheck background checks to individuals who have a concealed carry permit. This includes current and new permit holders. The fiscal note estimates 87,000 permit holders will forego an InstaCheck background check.

**State Revenue**

The bill increases state cash fund revenue to the Colorado Bureau of Investigation in the Department of Public Safety (DPS) by \$515,813 in FY 2021-22, and by \$687,750 in FY 2022-23. New state revenue is shown in Table 2 and described below. Revenue in FY 2021-22 is prorated for an October 1<sup>st</sup> start date.

**Fee impact on Conceal Carry Permit.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. The table below identifies the fee impact of this bill. The current fee for conceal carry permits is \$52.50 and the fee for InstaCheck firearm background check is \$10.50.

**Table 2  
Fee Revenue Under HB 21-1082**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Fee Amount</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<b>FY 2021-22</b>	Conceal Handgun Permit	\$52.50	22,875	\$1,200,938
	InstaCheck Firearm Background Check	\$10.50	(65,250)	(\$685,125)
	<b>FY 2021-22 Total</b>			<b>\$515,813</b>
			<i>CBI Identification Unit Cash Fund</i>	<i>\$903,563</i>
			<i>InstaCheck Cash Fund</i>	<i>(\$387,750)</i>
<b>FY 2022-23</b>	Conceal Handgun Permit	\$52.50	30,500	\$1,601,250
	InstaCheck Firearm Background Check	\$10.50	(87,000)	(\$913,500)
	<b>FY 2022-23 Total</b>			<b>\$687,750</b>
			<i>CBI Identification Unit Cash Fund</i>	<i>\$1,204,750</i>
			<i>InstaCheck Cash Fund</i>	<i>(\$517,000)</i>

**New conceal handgun permits.** In its first full implementation year, this bill increases state cash fund revenue to conduct additional background checks. Revenue from new conceal handgun permits is deposited into the CBI Identification Unit Cash Fund and the InstaCheck Cash Fund. Revenue totals in FY 2021-22 are prorated for an October 1 start date.

**InstaCheck firearms background check.** Starting in FY 2021-22, this bill decreases revenue to the InstaCheck Cash Fund from a decrease of background checks.

## State Expenditures

Net state expenditures in the DPS will increase by \$668,953 and 0.7 FTE in FY 2021-22, and by \$863,283 and 1.0 FTE in FY 2022-23. The bill also increases workload to the Department of Law. These expenditures are shown in Table 3 and discussed below.

**Table 3  
Expenditures Under HB 21-1082**

<b>Cost Components</b>	<b>FY 2021-22</b>	<b>FY 2022-23</b>
<b>Department of Public Safety (CBI Identification Unit Cash Fund)</b>		
Personal Services	\$175,009	\$231,263
Operating Expenses	\$3,780	\$3,915
Capital Outlay Costs	\$18,600	-
FBI Pass Through	\$257,344	\$343,125
Other Costs	\$211,391	\$277,855
Centrally Appropriated Costs <sup>1</sup>	\$119,773	\$155,527
FTE – Personal Services	2.8 FTE	3.7 FTE
<b>CBI Identification Unit Cash Fund Subtotal</b>	<b>\$785,898</b>	<b>\$1,011,685</b>
<b>Department of Public Safety (InstaCheck Cash Fund)</b>		
Personal Services	(\$77,034)	(\$97,421)
Operating Expenses	(\$2,835)	(\$3,645)
Centrally Appropriated Costs <sup>1</sup>	(\$37,076)	(\$47,336)
FTE – Personal Services	(2.1 FTE)	(2.7 FTE)
<b>InstaCheck Cash Fund Subtotal</b>	<b>(\$116,945)</b>	<b>(\$148,401)</b>
<b>DPS Total</b>	<b>\$668,953</b>	<b>\$863,283</b>
<b>Total FTE</b>	<b>0.7 FTE</b>	<b>1.0 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Public Safety.** On net, this bill increases expenditures in the DPS. First-year costs are prorated for the bill's October 1, 2021, effective date.

- *Personal services.* Beginning in FY 2021-22, DPS will require a net increase of 1.0 FTE. This includes an additional 3.7 FTE Fingerprint Examiners and 2.2 FTE Technicians to conduct an additional 30,500 background checks for conceal handgun permits, and a reduction of 4.9 FTE Technicians that are no longer required to conduct 87,000 InstaCheck background checks.

- *Federal Bureau of Investigation Pass-through.* The DPS passes \$11.25 of every application on to the federal government.
- *Materials and training.* These costs are associated with each background check application: equipment maintenance; print digitization; access to the Colorado Crime Information Center; and printing and postage costs. In addition, there is a one-time training cost in FY 2021-22 only.
- *Other potential costs.* The fiscal note assumes that the current conceal handgun permit process will meet federal regulations and be approved by the ATF. However, if the current process does not reach these standards, additional costs may be realized to conform to federal standards. The fiscal note assumes that any necessary modifications to attain federal approval, such as computer programming for database enhancements, will be requested through the annual budget process.

**Department of Law.** In FY 2021-22 only, workload in the Attorney General's office will increase to request permission from the ATF.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$82,698 in FY 2021-22 and \$108,191 in FY 2022-23.

**TABOR refunds.** The bill increases state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the General Fund in FY 2023-24.

**Federal ARPA funds.** This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

## Local Government

Starting in FY 2021-22, revenue and workload to county sheriffs will increase to process new conceal handgun permits. Sheriffs may charge an administration fee in addition to a \$52.50 fee for new applicants to cover administrative costs.

## Effective Date

This bill was postponed indefinitely by the House State, Civic, Military, and Veterans Affairs Committee on March 17, 2021.

## State Appropriations

The bill requires a net appropriation of \$586,256 and 0.7 FTE to the Department of Public Safety, which includes:

- \$666,124 and 2.8 FTE from the Colorado Bureau of Investigation Cash Fund, of which \$257,344 will be passed through to the Federal Bureau of Investigation; and
- a reduction of \$79,869 and 2.1 FTE from the InstaCheck Cash Fund.

## State and Local Government Contacts

District Attorneys  
Law

Information Technology  
Public Safety

Judicial  
Sheriffs