



**Colorado
Legislative
Council
Staff**

HB16-1264

FISCAL NOTE

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

Drafting Number: LLS 16-1002
Prime Sponsor(s): Rep. Melton

Date: February 16, 2016
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: BAN LAW ENFORCEMENT USE OF CHOKEHOLD

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	<u><\$5,000</u>	<u><\$5,000</u>
Cash Funds	<5,000	<5,000
State Expenditures	Minimal workload increase.	
TABOR Impact	<\$5,000	<\$5,000
Appropriation Required: None.		
Future Year Impacts: Ongoing minimal increases in state revenue and workload.		

Summary of Legislation

The bill prohibits a peace officer from intentionally using a chokehold, defined as wrapping an arm around or gripping the neck in a manner that limits or cuts off either the flow of air by compressing the windpipe or the flow of blood through the carotid arteries on each side of the neck. Exceptions are provided when the peace officer has reasonable grounds to believe that he or she or another person is in imminent danger of death or serious bodily injury. Violations are punishable as a class 1 misdemeanor.

Comparable Crime

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 the existing crime that creates a new factual basis for the offense. This bill creates a new crime that is currently punishable as third degree assault, which is also a class 1 misdemeanor. As of this writing, the number of third degree assault cases filed against a peace officer was unavailable, but is assumed to be minimal.

State Revenue

Beginning in FY 2016-17, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine

penalty for a class 1 misdemeanor is \$500 to \$5,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2015 and the assumption that peace officers will comply with the provisions of this bill, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

TABOR Impact

This bill may increase state revenue from fines, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

Beginning in FY 2016-17, this bill is anticipated to increase workload and costs for several state agencies. The fiscal note assumes that such increases are minimal and that no increases in appropriations are required for any state agency.

Judicial Department. Under the bill, workload may increase for the trial courts to hear cases involving peace officers who use a chokehold. In addition, if a peace officer is found guilty and sentenced to probation, workload will increase for the probation division. Workload will also increase for the department to update the ICON/Eclipse computer system to reflect the new crime.

Other agencies of the Judicial Branch. To the extent that any peace officer is determined to be indigent, workload could increase for the Office of the State Public Defender (OSPD) to provide representation. If the OSPD has a conflict, representation is provided by the Office of the Alternate Defense Counsel.

Other state agencies. A number of state agencies employ peace officers, including the Departments of Corrections, Law, Natural Resources, Public Safety, and Revenue, as well as institutions of higher education. Under current practice, many of these peace officers are trained to use vascular neck restraint techniques. This analysis assumes state agencies would have to retrain peace officers and revise any written policies on the use of force in order to comply with the bill.

Local Government Impact

Criminal offenses. This bill impacts local governments by creating the new crime of using a chokehold by a peace officer. This may increase workload for local law enforcement to investigate any complaints received against a peace officer (local or state), as well as for district attorneys' offices that prosecute offenses. If the offense occurs in the City and County of Denver, costs will increase for the Denver County Court to try cases or supervise any probationers. To the extent that convictions result from the new provisions of the bill and offenders are sentenced to jail, county costs may also increase. The penalty for a class 1 misdemeanor is 6 to 18 months in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates.

Training. To the extent that any local law enforcement officers use chokeholds, the fiscal note assumes additional training will be required and written policies on the use of force will need to be updated. This workload is assumed to be minimal.

Effective Date

The bill takes effect and applies to offenses committed on or after July 1, 2016.

State and Local Government Contacts

Corrections
Higher Education
Natural Resources
Sheriffs

Counties
Information Technology
Public Safety

District Attorneys
Judicial
Revenue