



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 19-1021

FISCAL NOTE

Drafting Number: LLS 19-0005
Prime Sponsors: Rep. Saine; Humphrey

Date: January 17, 2019
Bill Status: House SVMA
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Bill Topic: REPEAL AMMUNITION MAGAZINE PROHIBITION

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure (minimal), State Transfer, TABOR Refund (minimal), Local Government, Statutory Public Entity

This bill repeals the prohibition on selling, transferring, and possessing large-capacity magazines and will decrease state and local revenue, expenditures, and workload.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: This fiscal note reflects the introduced bill.

Summary of Legislation

This bill repeals the prohibition on the selling, transferring, and possessing large-capacity magazines. It also repeals the requirement that gun magazine manufacturers stamp their magazines to indicate that it was made after July 1, 2013.

Comparable Crime and 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 that creates a new factual basis for the offense. This bill repeals the prohibition for a person to sell, transfer, or possess a large capacity magazine. 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.

Class 2 misdemeanors. Under current law, it is a class 2 misdemeanor if an individual sells, transfers, or possesses a large capacity magazine if they did not already own it before July 1, 2013. From FY 2016-17 to FY 2018-19, there were two persons convicted and sentenced for selling, transferring, or possessing a large capacity magazine. Of the persons sentenced, both were white males and one was sentenced to county jail. Current law also requires magazine manufactures to stamp magazines to indicate that the magazine was made after July 1, 2013. Failure to do so is a class 2 misdemeanor. From FY 2016-17 to FY 2018-19, there were no persons convicted and sentenced for this offense.

Class 1 misdemeanor. Under current law, a person commits a class 1 misdemeanor if he or she commits a second or subsequent offense of selling, transferring, or possessing a large capacity magazine. From FY 2016-17 to FY 2018-19, there were no persons convicted and sentenced for this offense.

Class 6 felony. Under current law, a person commits a class 6 felony if the individual possesses a large-capacity magazine while committing any felony or crime of violence. From FY 2016-17 to FY 2018-19, there was 1 sentence for possessing a large-capacity magazine while committing a felony or crime of violence. The person sentenced was an African American male who was sentenced to the Department of Corrections (DOC).

Assumptions. Based on the comparable crime data listed above, this analysis assumes that there will be up to 20 fewer case filings per year for the offenses under the bill, and that there will be a decrease in convictions for one class 6 felony, and two class 2 misdemeanors every five years. It is assumed that the reduction in the class 6 felony conviction will not affect the operating or capital costs in the DOC over the next five years given that the offense involves committing another felony or a crime of violence, and it is unknown if the other crime would carry a DOC sentence. On average, a class 6 felony DOC sentence results in 9 months of incarceration and 9.5 months on parole.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Beginning in the current FY 2018-19, this bill is anticipated to reduce state revenue by a minimal amount.

Criminal fines and court fees. By eliminating a misdemeanor and felony offense, the bill will decrease state revenue from criminal fines and court fees by a minimal amount beginning in FY 2019-20, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty is \$250 to \$1,000 for a class 2 misdemeanor offense, \$500 to \$5,000 for a class 1 misdemeanor, and \$1,000 to \$100,000 for a class 6 felony. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

Probation. Individuals sentenced to probation pay a supervision fee of \$50 a month. To the extent less individuals are sentenced to probation, revenue from a supervision fee, will also decrease.

State Expenditures

Beginning in the current FY 2018-19, this bill decreases workload and state expenditures in the Judicial Department and agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. It may also decrease state General Fund expenditures in the Department of Corrections, as discussed below.

Judicial Department. The bill is anticipated to minimally decrease the number of new case filings, which will decrease workload in the trial courts. Based on the low number of cases currently heard in the courts, the decrease in court workload is expected to be minimal and does not require a change to existing appropriations.

Agencies providing representation to indigent persons. Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel will decrease under the bill. To the extent this occurs, this analysis assumes that any change in appropriations will be addressed through the annual budget process.

Department of Corrections. Based on the assumptions laid out above, the bill may decrease the number of persons sentenced to prison, and therefore costs will decrease. Because the current class 6 felony offense occurs when an individual commits another crime, it is unknown how the elimination of this crime will affect sentencing for the co-occurring crime. Any reduction in costs for incarceration and parole resulting from this bill is anticipated to be minimal and does not require a change in appropriations.

TABOR refunds. The bill is expected to minimally decrease state General Fund obligations for TABOR refunds in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly reduce the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

Local Government

Overall, this bill is expected to decrease local government revenue, workload, and costs as described below. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction.

District attorneys and law enforcement. The bill will reduce workload and costs for district attorneys and other local law enforcement agencies to not prosecute or investigate individuals and manufactures who violate the large-capacity magazine ban.

Denver County Court. The bill may decrease revenue, expenditures, and workload for the Denver County Court, managed and funded by the City and County of Denver. The court will no longer try misdemeanor cases under the bill for selling, transferring, or possessing a large capacity magazine. Probation services in the Denver County Courts may also experience a minimal decrease in workload and revenue to the extent that less individuals are sentenced to probation within Denver County.

County jails. The bill will decrease county jail costs. However, based on the comparable crime data listed above, the expected reduction is assumed to be minimal. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months and 6 to 18 months for a class 1 misdemeanor. However, because the courts have the discretion of incarceration or imposing a fine, the precise county impact cannot be determined. Under current law, the state reimburses county jails for housing state inmates. Based on a 2018 Joint Budget Committee Staff county jail survey, the average cost to house an offender in a county jail is \$98.83 per day, but varies significantly from \$43.65 to \$350.21 per day depending on the county. For the current fiscal year, the state reimburses county jails at a daily rate of \$54.93.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial
Sheriffs
Local Affairs
Public Safety

Counties
Corrections
Natural Resources

District Attorneys
Municipalities
Information Technology