



**Colorado  
Legislative  
Council  
Staff**

**HB16-1308**

**FINAL  
FISCAL NOTE**

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

**Drafting Number:** LLS 16-0756  
**Prime Sponsor(s):** Rep. Kagan  
Sen. Newell

**Date:** June 14, 2016  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Clare Pramuk (303-866-2677)

**BILL TOPIC:** FRAUDULENT MISREPRESENTATION OF A SERVICE ANIMAL

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
<b>State Revenue</b>	<u>&lt;\$10,000</u>	<u>&lt;\$10,000</u>
Cash Funds	<10,000	<10,000
<b>State Expenditures</b>	Workload increase.	
<b>TABOR Impact</b>		
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing workload and revenue increase.		

**NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.**

**Summary of Legislation**

This bill creates an unclassified misdemeanor for misrepresentation of a service animal if:

- a person intentionally fraudulently misrepresents an animal in his or her possession as a service animal in order to obtain any of the rights afforded to individuals with service animals under Colorado law; or
- the person intentionally fraudulently misrepresents himself or herself as a trainer of a service animal.

The penalty for each violation includes a \$33 surcharge plus a fine of:

- \$350 to \$1,000 for a first offense;
- \$600 to \$1,000 for a second offense;
- \$1,000 to \$5,000 and up to 10 hours of community service for a third or subsequent offense.

The bill allows for a person who has a single conviction to petition the court to have his or her record sealed if he or she has not committed an offense in the prior three years.

## Background

The ADA defines a disability as a physical or mental impairment that substantially limits one or more major life activities. It includes a person who has a history or record of such an impairment, or is perceived by others as having such an impairment. A service animal is defined under the ADA as a dog or miniature horse that has been individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the service animal must be directly related to the person's disability. An individual with a disability, or a trainer of a service animal, has the right to be accompanied by a service animal, or a service animal in training, without being required to pay an extra charge for the service animal. This right applies to:

- any place of employment, housing, or public accommodation;
- any programs, services, or activities conducted by a public entity;
- any public transportation service; or
- any other place open to the public.

## 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. The Judicial Department reported that for crimes for violating laws related to reserved parking for persons with disabilities, 40 sentences were imposed between January 1, 2014, and December 31, 2015. Of these crimes, 16 were committed by males and 12 by females, but the gender was not identified on the remaining 12 individuals. The minority data indicated that 24 individuals were white, 2 Hispanic, 1 American Indian, 2 were classified as other, and 11 did not include minority identification. The fiscal note assumes that this group of crimes serves as a reasonable proxy for the new misdemeanor created under this bill and that court filings will be approximately 20 per year.

## Assumptions

While the bill may be effective during FY 2015-16, the fiscal note assumes that no cases will be adjudicated until FY 2016-17, so no revenue will be received until then. Based on the data included in the Comparable Crime section, convictions for first time offenses are estimated at 20 per year. The fiscal note assumes that people convicted of this misdemeanor are not likely to commit a further offense.

## State Revenue

This bill is expected to increase state revenue by less than \$10,000 per year beginning in FY 2016-17 to the Crime Victim Compensation Fund and the Fines Collection Cash Fund in the Judicial Department. Each person convicted of a misdemeanor under this bill, is required to pay a \$33 surcharge to be deposited in the Crime Victim Compensation Fund and a fine specified in the bill to be deposited into the Fines Collection Cash Fund. Because the courts have discretion in the amount of fine levied, the increase in revenue is estimated as less than \$10,000 each year.

**Sealing arrest and criminal records.** Beginning in FY 2019-20, there may be an increase in revenue for sealing conviction records. To petition a district court for sealing criminal conviction records, a fee of at least \$424 is payable to the Judicial Department's Judicial Stabilization Cash Fund. In addition, to the extent that any of these offenders will take the extra step of petitioning to seal arrest and criminal records, a fee of at least \$224 is payable to the Judicial Stabilization Cash Fund. The Department of Public Safety (DPS) also charges a fee of \$27.98 to seal arrest records paid to the CBI Identification Unit Cash Fund. Based on the low number of requests to seal all criminal conviction records, and assuming that cases of misrepresentation of service animal offenses comprise only a small portion of these requests, the fiscal note assumes any revenue increase is minimal.

### **TABOR Impact**

This bill increases state revenue from fines and surcharges, which will increase the amount of money required to be refunded under TABOR. TABOR refunds are paid out of the General Fund.

### **State Expenditures**

This bill will increase workload for multiple state agencies as explained below.

**Trial Courts.** The workload for trial courts in the Judicial Department will increase beginning in FY 2016-17 to try cases charged under this new misdemeanor. As noted in the Comparable Crime section, the number of cases is expected to be approximately 20 per year, which can be accomplished within the current trial court appropriations.

**Office of the State Public Defender and Office of Alternate Defense Counsel.** The bill may increase workload or costs for the Office of the State Public Defender and Office of Alternate Defense Counsel, to provide representation for any persons deemed to be indigent. The fiscal note assumes any such increases are minimal and will not require an increase in appropriations for any agency within the Judicial Department.

**Sealing arrest and criminal records.** Beginning in FY 2019-20, there may be a minimal increase in workload for the Judicial Department for sealing conviction records and for the DPS for sealing associated arrest and criminal records.

### **Local Government Impact**

**Misdemeanor offenses in county courts.** The bill will increase workload for district attorneys to prosecute any new offenses under the bill.

**Denver County Court.** The court will try misdemeanor cases under the bill for misrepresentation of a service animal. The bill results in an increase in workload and revenue for the Denver County Court, managed and funded by the City and County of Denver.

**Local Law Enforcement Agencies.** Denver County Court and other custodians of records will have increased workload to seal records as directed by the court under this bill. This increased workload will not occur before FY 2019-20, and is assumed to be minimal.

**Effective Date**

The bill was postponed indefinitely by the Senate Judiciary Committee on April 11, 2016.

**State and Local Government Contacts**

Counties  
Judicial Criminal  
Regulatory Agencies

District Attorneys  
Municipalities  
Sheriffs

Information Technology  
Public Safety