



**FINAL  
FISCAL NOTE**

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

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**Drafting Number:** LLS 17-0383

**Date:** May 31, 2017

**Prime Sponsor(s):** Rep. Gray

**Bill Status:** Postponed Indefinitely

**Fiscal Analyst:** Kerry White (303-866-3469)

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**BILL TOPIC:** ARREST OF AN OFFENDER ON A DEFERRED SENTENCE

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

### **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 was postponed indefinitely by the House Judiciary Committee on February 16, 2017.

**State and Local Government Contacts**

Counties  
Judicial

District Attorneys  
Law

Information Technology  
Municipalities