

**STATE and LOCAL
FISCAL IMPACT**

Drafting Number: LLS 14-0723 **Date:** January 24, 2014
Prime Sponsor(s): Rep. Kagan; Gardner **Bill Status:** House Judiciary
 Sen. Newell **Fiscal Analyst:** Kerry White (303-866-3469)

SHORT TITLE: CBI CYBER CRIME JURISDICTION

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue	<\$5,000	<\$5,000
State Expenditures	\$192,247	\$198,675
General Fund	174,357	177,927
Centrally Appropriated Costs**	17,890	20,748
FTE Position Change	1.8 FTE	2.0 FTE
Appropriation Required: \$174,357 - Department of Public Safety (FY 2014-15)		

* This summary shows changes from current law under the bill for each fiscal year.
 ** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill authorizes the Colorado Bureau of Investigation (CBI) in the Department of Public Safety (DPS) to conduct criminal investigations related to computer crime upon the request of law enforcement officials or the Governor, or upon its own discovery of such crime.

The CBI is charged with developing and collecting information about computer crime to assist in the identification, charging, and prosecution of criminal offenders, and to report its findings to the appropriate law enforcement agencies. It must provide awareness training and information concerning cyber-security and security risks to the information technology industry. At least annually, the CBI must also prepare a report of its activities and outcomes for use by local law enforcement agencies or the Governor.

Background

According to data provided by Rapid7, an information security firm specializing in cybercrime statistics and data breaches, over 268 breaches occurred in local, federal, and state government agencies between January 2009 and May 2012. In 2012, the state launched the "Secure Colorado" initiative to help protect state infrastructure from cyber attacks. Staff from the Governor's Office of Information Technology (OIT) reported that there are between 600,000 and 800,000 attempts to breach a state network every day. Of these attempts, between seven and ten per month are classified as serious. Currently, the CBI does not have the resources or authority to investigate such acts. If the state experiences a data breach, under certain circumstances it can request investigative support from the Federal Bureau of Investigation, U.S. Department of Homeland Security, or Secret Service.

Under state law (Section 18-5.5-102, C.R.S.), computer crimes have varying punishments, ranging from a class 2 misdemeanor to a class 3 felony.

This bill is related to a decision-item request by the DPS to form a cyber security task force with the Department of Military and Veterans Affairs, the Federal Bureau of Investigation, and the City and County of Denver, among other partners.

State Revenue

Beginning in FY 2014-15, 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 bill does not create a new crime, but may increase the identification and prosecution of persons accused of committing computer crimes. As discussed above, depending on the offense, computer crimes are punishable as offenses ranging from a class 2 misdemeanor to a class 3 felony. The fine penalty for these offenses ranges from \$250 to \$750,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined, but is expected to be minimal.

State Expenditures

This bill increases state expenditures by \$192,247 and 1.8 FTE in FY 2014-15 and by \$198,675 and 2.0 FTE in FY 2015-16 and subsequent years. These costs are in the CBI and will be paid with General Fund. Workload and costs may increase for several other state agencies, including the Departments of Corrections and Law, and the Judicial Department. Detail on costs is provided in Table 1 and the discussion that follows.

Table 1. CBI Expenditures Under HB14-1095		
Cost Components	FY 2014-15	FY 2015-16
Personal Services	\$140,641	\$153,427
FTE	1.8	2.0
Operating Expenses and Capital Outlay Costs	11,116	1,900
Training and Certifications	13,334	13,334
Software Licenses	4,266	4,266
Travel	5,000	5,000
Centrally Appropriated Costs*	17,890	20,748
TOTAL	\$192,247	\$198,675

* Centrally appropriated costs are not included in the bill's appropriation.

Assumptions. The fiscal note assumes that seven to ten new cases per month of computer crimes will require investigation. These cases will be a mix of incidents affecting state and local systems. Depending on the scope of the investigation and suspected crime, cases may be Colorado-based, multi-state, or federal.

Department of Public Safety. Due to the nature and complexity of computer crimes, it is assumed that 2.0 FTE Criminal Investigators II will be required in the CBI to assist state and local agencies. These staff will also assist in providing awareness training and preparing the required reports. Staff time is calculated at \$5,593 per month, per FTE, and is prorated in the first year to account for the General Fund payday shift. Standard operating and capital outlay costs are included for each FTE. Training, computer crime jump kit supplies, software licenses, and travel costs are also provided.

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. The centrally appropriated costs in the CBI subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under HB14-1095*		
Cost Components	FY 2014-15	FY 2015-16
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$8,354	\$9,137
Supplemental Employee Retirement Payments	9,536	11,611
TOTAL	\$17,890	\$20,748

*More information is available at: <http://colorado.gov/fiscalnotes>

Judicial Department. To the extent that the results of CBI investigations of computer crime result in additional cases being filed in a Colorado court, workload for the trial courts will increase. The fiscal note assumes the increase in workload can be accomplished within existing appropriations.

Department of Law. If the results of CBI investigations of computer crime result in federal or multi-state prosecutions to which Colorado is a party, workload and costs may increase. The fiscal note assumes that the Department of Law will request any required increase in appropriations through the annual budget process.

Department of Corrections. To the extent that this bill increases the number of persons convicted of a felony for a computer crime in Colorado, costs for the Department of Corrections could increase. Offenders placed in a private contract prison cost the state about \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. The fiscal note assumes that any increase in costs will be minimal, but that the department may request additional appropriations as required through the annual budget process.

Local Government Impact

This bill affects local governments in two ways. First, it could lessen workload for local governments that are investigating computer crimes by allowing those agencies to collaborate with the CBI. Second, if the result of those investigations results in an increase in persons convicted of a class 2 misdemeanor, it may increase both revenue and expenditures.

The penalty for a class 2 misdemeanor is 3 to 12 months in a county jail, a fine of \$250 to \$1,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates. It is assumed that the impact of this bill will be minimal.

Effective Date

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

State Appropriations

For FY 2014-15 and assuming the department's decision-item request is not approved in full in the Long Bill, the Department of Public Safety requires an appropriation of \$174,357 General Fund and an allocation of 1.8 FTE.

State and Local Government Contacts

Corrections
Judicial
Public Safety

Counties
Law
Sheriffs

District Attorneys
Municipalities