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EMPLOYMENT-BASED CRIMINAL HISTORY BACKGROUND CHECKS

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State law requires that people seeking work in 64 regulated professions first submit to a fingerprint-based criminal history background check. Over the past decade, the General Assembly has passed at least 20 bills requiring some form of background check for employment. The professions requiring the most background checks in 2012 are in child care, education, law enforcement, and the medical marijuana industry. Depending on the profession, a background check may be conducted statewide, nationally, or both. Background checks are conducted by the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI). This *issue brief* discusses procedures and trends pertaining to Colorado's employment-based background checks.

Background

Most background checks for employment in Colorado are part of the process for applying for a professional license through a licensing authority such as the Department of Regulatory Agencies (DORA) or the Department of Education (CDE). In many cases, such as teaching licensure, multiple background checks are performed; one may be required by the licensing authority, such as the CDE, and another by the school district. A private employer may also require a background check, even if a background check has already been conducted to authorize a professional license.

Procedure. To obtain a background check for a licensed profession, an applicant first submits fingerprints, taken by local law enforcement, and a payment of \$22.25 directly to the CBI. If the background check requires a national search through the FBI, an additional fee of \$17.25 is charged. Certain

professions require a statewide background check only, while others require both state and national background checks. The CBI lists the type of background check required for each profession on its [website](#).

The CBI processes fingerprints through the Colorado Automated Fingerprint Identification System (AFIS). State and national searches are conducted using separate databases, which may report different information depending on the circumstances in which the criminal record was entered.

When fingerprints are processed through the FBI, a report is returned to the CBI, and then provided to the employer or licensing authority. A legal protocol exists for the secure delivery of the report, and it is not provided to the applicant. The CBI's stated goal is to process background checks within 3 days; however its current average turnaround time is 15 days.

The combined FBI and CBI report lists all criminal charges for which the applicant has been fingerprinted nationwide, and does not distinguish between felonies or misdemeanors. The outcome of the charge is also provided, including penalties. Applicants do not "pass" or "fail" the background check, but some crimes automatically disqualify applicants from obtaining certain licenses.

There are no general provisions for reports to be provided to private employers, except for those specified in statute, such as jobs located at daycare facilities. The CBI also provides another type of background check, available to anyone, through its website at a cost of \$6.85. This search does not use fingerprints, but instead matches the name and date of birth, and is limited to activity in Colorado only.

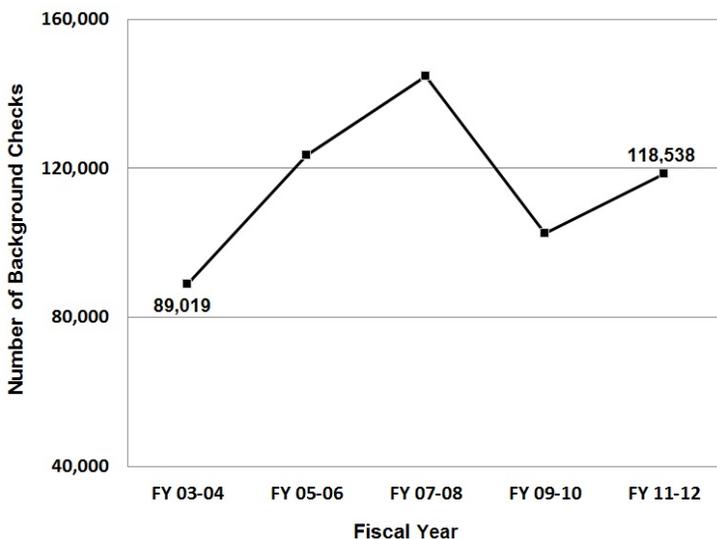
Fiscal impact of background checks. The CBI has two units to conduct the background checks: a criminal unit, which conducts background checks on law enforcement officers, and a civil unit for all others. The CBI employs two separate classes of employees for the background check process. Fingerprint examiners match and analyze the fingerprint cards, while data specialists update criminal history, submit the card to the FBI, and provide responses to licensing authorities. It is estimated that it requires 1.0 FTE, in total, to process 5,500 background check requests.

Each background check is funded by a fee that covers costs within the CBI. If the workload is greater than estimated, and exceeds the spending authority appropriated, the relevant unit at CBI will face a backlog of background check requests. The Department of Public Safety may request additional resources under these circumstances. Revenue from background checks is deposited into the CBI Identification Unit Fund.

Trends

Both the number of bills requiring background checks, and the actual number of checks performed statewide have increased over the last decade. In FY 2011-12 the CBI Conducted 118,538 employment-based background checks. The number of background checks conducted by CBI each year is reflected in Figure 1.

Figure 1
Background Checks for Employment in Colorado
FY 2003-04 to FY 2011-12



Source: Colorado Bureau of Investigation

Increases and decreases in the number of background checks performed can be economically driven by employment trends. If fewer people seek work in these occupations, fewer background checks will be conducted. Legislation could have a significant impact, particularly when it requires background checks for occupations that did not require them previously.

In one example of a significant legislative impact, House Bill 10-1284 required that those involved in occupations related to the manufacture and sale of medical marijuana be licensed and background checked. According the CBI, this resulted in 2,389 background checks for FY 2010-11 in a category that had not previously existed. Some professions require periodic renewals of background checks; others increase and decrease due to other factors. Table 1 displays the five professions that required the highest number of background checks in FY 2011-12.

Table 1
Top Five Background Checks For Employment
by Profession, FY 2011-12

Profession	Number Conducted
Licensed Child Care (includes Foster Care, Camps, Kinship and Adoptions)	22,457
Education - Non-Licensed School District	17,955
Education - Provisional (CDE)	11,502
Police Applicant/ Criminal Justice Employee	5,199
Medical Marijuana Center Licensing	5,152
TOTAL	62,265

Source: Colorado Bureau of Investigation