

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0438.01 Richard Sweetman x4333

SENATE BILL 15-086

SENATE SPONSORSHIP

Lambert, Grantham, Lundberg, Marble, Holbert, Cooke, Baumgardner, Neville T., Roberts,
Cadman, Scheffel, Scott, Crowder

HOUSE SPONSORSHIP

Joshi, Brown, Klingenschmitt, Carver, Wilson, Neville P.

Senate Committees

Judiciary
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING CRIMINAL BACKGROUND CHECKS PERFORMED PURSUANT**
102 **TO TRANSFERS OF FIREARMS, AND IN CONNECTION THEREWITH,**
103 **MAKING AND REDUCING APPROPRIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The bill repeals the requirement that before any person who is not a licensed gun dealer transfers possession of a firearm to a transferee, he or she must require that a criminal background check be conducted of the prospective transferee and must obtain approval of the transfer from the Colorado bureau of investigation (CBI).

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

The bill repeals the requirement that CBI impose a fee for performing an instant criminal background check pursuant to the transfer of a firearm.

The bill makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **repeal** 18-12-112.

3 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-424, **repeal**

4 (3.5) as follows:

5 **24-33.5-424. National instant criminal background check**

6 **system - state point of contact - grounds for denial of firearm transfer**

7 **- appeal - rule-making - unlawful acts.** (3.5) (a) ~~On and after March 20,~~

8 ~~2013, the bureau shall impose a fee for performing an instant criminal~~

9 ~~background check pursuant to this section. The amount of the fee shall~~

10 ~~not exceed the total amount of direct and indirect costs incurred by the~~

11 ~~bureau in performing the background check.~~

12 (b) ~~The bureau shall transmit all moneys collected pursuant to this~~

13 ~~subsection (3.5) to the state treasurer, who shall credit the same to the~~

14 ~~instant criminal background check cash fund, which fund is hereby~~

15 ~~created and referred to in this subsection (3.5) as the "fund".~~

16 (c) ~~The moneys in the fund shall be subject to annual~~

17 ~~appropriation by the general assembly for the direct costs associated with~~

18 ~~performing background checks pursuant to this section. The state~~

19 ~~treasurer may invest any moneys in the fund not expended for the purpose~~

20 ~~of this section as provided by law. The state treasurer shall credit any~~

21 ~~interest and income derived from the deposit and investment of moneys~~

22 ~~in the fund to the fund.~~

23 (d) ~~Any unexpended and unencumbered moneys remaining in the~~

1 fund at the end of a fiscal year shall remain in the fund and shall not be
2 credited to any other fund. To the extent practicable, the bureau shall use
3 any such remaining funds to reduce the amount of the fee described in
4 paragraph (a) of this subsection (3.5):

5 (e) ~~The bureau is authorized to contract with a public or private~~
6 ~~entity for services related to the collection of the fee described in~~
7 ~~paragraph (a) of this subsection (3.5):~~

8 (f) ~~On January 15, 2014, and on January 15 of each calendar year~~
9 ~~thereafter, the bureau shall report to the joint budget committee~~
10 ~~concerning:~~

11 (I) ~~The number of full-time employees used by the bureau in the~~
12 ~~preceding year for the purpose of performing background checks pursuant~~
13 ~~to this section; and~~

14 (II) ~~The calculations used by the bureau to determine the amount~~
15 ~~of the fee imposed pursuant to this subsection (3.5):~~

16 (g) ~~Repealed.~~

17 **SECTION 3.** In Colorado Revised Statutes, 13-14-105.5, **amend**
18 (2) (c) (III) and (8) as follows:

19 **13-14-105.5. Civil protection orders - prohibition on**
20 **possessing or purchasing a firearm.** (2) (c) To satisfy the requirement
21 in paragraph (a) of this subsection (2), the respondent may:

22 (III) Sell or otherwise transfer the firearm or ammunition to a
23 private party who may legally possess the firearm or ammunition. ~~except~~
24 ~~that a person who sells or transfers a firearm pursuant to this~~
25 ~~subparagraph (III) shall satisfy all of the provisions of section 18-12-112,~~
26 ~~C.R.S., concerning private firearms transfers, including but not limited to~~
27 ~~the performance of a criminal background check of the transferee.~~

1 (8) If a respondent sells or otherwise transfers a firearm or
2 ammunition to a private party who may legally possess the firearm or
3 ammunition, as described in subparagraph (III) of paragraph (c) of
4 subsection (2) of this section, the respondent shall acquire FROM THE
5 TRANSFEREE A WRITTEN RECEIPT ACKNOWLEDGING THE TRANSFER, WHICH
6 RECEIPT SHALL BE DATED AND SIGNED BY THE RESPONDENT AND THE
7 TRANSFEREE.

8 ~~(a) From the transferee, a written receipt acknowledging the~~
9 ~~transfer, which receipt shall be dated and signed by the respondent and~~
10 ~~the transferee; and~~

11 ~~(b) From the licensed gun dealer who requests from the bureau a~~
12 ~~background check of the transferee, as described in section 18-12-112,~~
13 ~~C.R.S., a written statement of the results of the background check.~~

14 **SECTION 4.** In Colorado Revised Statutes, 18-1-1001, **amend**
15 (9) (b) (III) and (9) (h) as follows:

16 **18-1-1001. Protection order against defendant - definitions.**

17 (9) (b) Upon issuance of an order pursuant to paragraph (a) of this
18 subsection (9), the defendant shall relinquish any firearm or ammunition
19 not more than twenty-four hours after being served with the order; except
20 that a court may allow a defendant up to seventy-two hours to relinquish
21 a firearm or up to five days to relinquish ammunition pursuant to this
22 paragraph (b) if the defendant demonstrates to the satisfaction of the court
23 that he or she is unable to comply within twenty-four hours. To satisfy
24 this requirement, the defendant may:

25 (III) Sell or otherwise transfer the firearm or ammunition to a
26 private party who may legally possess the firearm or ammunition. ~~except~~
27 ~~that a defendant who sells or transfers a firearm pursuant to this~~

1 ~~subparagraph (III) shall satisfy all of the provisions of section 18-12-112,~~
2 ~~concerning private firearms transfers, including but not limited to the~~
3 ~~performance of a criminal background check of the transferee.~~

4 (h) If a defendant sells or otherwise transfers a firearm or
5 ammunition to a private party who may legally possess the firearm or
6 ammunition, as described in subparagraph (III) of paragraph (b) of this
7 subsection (9), the defendant shall acquire FROM THE TRANSFEREE A
8 WRITTEN RECEIPT ACKNOWLEDGING THE TRANSFER, WHICH RECEIPT
9 SHALL BE DATED AND SIGNED BY THE DEFENDANT AND THE TRANSFEREE.

10 ~~(I) From the transferee, a written receipt acknowledging the~~
11 ~~transfer, which receipt shall be dated and signed by the defendant and the~~
12 ~~transferee; and~~

13 ~~(II) From the licensed gun dealer who requests from the bureau a~~
14 ~~background check of the transferee, as described in section 18-12-112, a~~
15 ~~written statement of the results of the background check.~~

16 **SECTION 5.** In Colorado Revised Statutes, 18-6-801, **amend** (8)
17 (b) (III) and (8) (h) as follows:

18 **18-6-801. Domestic violence - sentencing.** (8) (b) Upon issuance
19 of an order to relinquish one or more firearms or ammunition pursuant to
20 paragraph (a) of this subsection (8), the defendant shall relinquish any
21 firearm or ammunition not more than twenty-four hours after being
22 served with the order; except that a court may allow a defendant up to
23 seventy-two hours to relinquish a firearm or up to five days to relinquish
24 ammunition pursuant to this paragraph (b) if the defendant demonstrates
25 to the satisfaction of the court that he or she is unable to comply within
26 twenty-four hours. To satisfy this requirement, the defendant may:

27 (III) Sell or otherwise transfer the firearm or ammunition to a

1 private party who may legally possess the firearm or ammunition. ~~except~~
2 ~~that a defendant who sells or transfers a firearm pursuant to this~~
3 ~~subparagraph (HH) shall satisfy all of the provisions of section 18-12-112,~~
4 ~~concerning private firearms transfers, including but not limited to the~~
5 ~~performance of a criminal background check of the transferee.~~

6 (h) If a defendant sells or otherwise transfers a firearm or
7 ammunition to a private party who may legally possess the firearm or
8 ammunition, as described in subparagraph (III) of paragraph (b) of this
9 subsection (8), the defendant shall acquire FROM THE TRANSFEREE A
10 WRITTEN RECEIPT ACKNOWLEDGING THE TRANSFER, WHICH RECEIPT
11 SHALL BE DATED AND SIGNED BY THE DEFENDANT AND THE TRANSFEREE.

12 ~~(I) From the transferee, a written receipt acknowledging the~~
13 ~~transfer, which receipt shall be dated and signed by the defendant and the~~
14 ~~transferee; and~~

15 ~~(H) From the licensed gun dealer who requests from the bureau a~~
16 ~~background check of the transferee, as described in section 18-12-112, a~~
17 ~~written statement of the results of the background check.~~

18 **SECTION 6. Appropriation - adjustments to 2015 long bill.**

19 (1) To implement this act, appropriations made in the annual general
20 appropriation act for the 2015-16 state fiscal year to the department of
21 public safety are adjusted as follows:

22 (a) The general fund appropriation for the national criminal
23 background check system is increased by \$3,511,343;

24 (b) The cash funds appropriation from the instant criminal
25 background check fund created in section 24-33.5-424 (3.5) (b), C.R.S.,
26 is decreased by \$3,648,500, and the related FTE is decreased by 2.4 FTE.

27 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.