



Legislative
Council Staff

Nonpartisan Services for Colorado's Legislature

FISCAL NOTE

Drafting Number: LLS 18-1123 **Date:** April 23, 2018
Prime Sponsors: Rep. Lee; Herod **Bill Status:** House Judiciary
 Sen. Lundberg; Kagan **Fiscal Analyst:** Kerry White | 303-866-3469
 Kerry.White@state.co.us

Bill Topic: PRISON POPULATION MANAGEMENT MEASURES

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

The bill requires the Department of Corrections to track the vacancy rate among its prison beds and provides options for managing the prison population under certain circumstances. The bill results in a one-time increase in state expenditures in the current FY 2017-18 and is anticipated to, on net, reduce state expenditures in the future.

Appropriation Summary: For the current FY 2017-18, the bill requires an appropriation of \$72,800 to the Department of Corrections.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 18-1410

		FY 2017-18 <i>(current year)</i>	FY 2018-19	FY 2019-20
Revenue	Total			
Expenditures	General Fund	\$72,800		
Transfers				
TABOR Refund				

Summary of Legislation

This bill requires the Department of Corrections (DOC) to track the vacancy rate of prison beds in DOC facilities and private prisons under contract with the DOC. If the prison bed vacancy rate falls below 2 percent or exceeds 3 percent for 30 consecutive days, the DOC must notify the Governor, Joint Budget Committee, the State Parole Board, and the Office of Community Corrections in the Department of Public Safety (DPS).

Prison population management options. If the prison bed vacancy rate falls below 2 percent for 30 consecutive days, the DOC may:

- request that the DPS provide information about the location and nature of any unused community corrections beds. The DPS must respond within 72 hours of the request and provide updated information on a weekly basis until it is notified that the vacancy rate exceeds 3 percent;
- provide the Parole Board with a list of inmates who are within 90 days of their mandatory release date (MRD), have a verified parole sponsor, and do not require full State Parole Board review or victim notification;
- provide the State Parole Board with a list of inmates who have conditional parole approval, do not require full Parole Board review or victim notification, and have satisfied the condition(s) required for an order to parole; or
- use any or all of these measures described above until the vacancy rate is above 3 percent for 30 consecutive days.

If the DOC institutes or discontinues any of the above measures, it must notify each elected district attorney, chief judge of each judicial district, and the state public defender.

State Parole Board. The State Parole Board must conduct a file review for each inmate listed on the notifications created under the bill, as described above. The file review must occur within 10 days after receiving the notification. If the State Parole Board grants parole to an inmate who is within 90 days of his or her MRD, it may set the release date up to 30 days prior to the inmate's MRD but not sooner than 15 days after the file review. The DOC must notify the inmate's parole sponsor to verify his or her willingness and ability to sponsor the inmate on the amended release date. If the State Parole Board grants parole to an inmate who has conditional parole approval, it may set the release date no sooner than 15 days after the file review. The DOC must also make notifications to the inmate's parole sponsor about the amended release date.

Background and Assumptions

Prison beds. According to the DOC's March 2018 Monthly Population and Capacity Report, there are 14,473 prison beds within 22 state-operated prisons. This number excludes beds reserved for discipline, investigations, holding or infirmary. As of March 31, 2018, there were 14,078 inmates in these facilities and 131 offenders assigned to a state-operated facility, but located elsewhere (for reasons that include court appearances, medical appointments, participation in Correctional Industries fire crew or removal from the population to another facility or center). There were an additional 3,787 inmates assigned to one of three private prisons as of this date.

Community corrections beds. The current FY 2017-18 Long Bill contains funding for 3,642 community corrections beds, which are overseen by 22 local boards. The allocation of these beds by type is shown in Table 2. In September 2017, there were about 500 beds that were unused; that number was expected to grow to close to 600 by the end of 2017.

Table 2
FY 2017-18 Community Corrections Bed Type Allocation

Placement Type	Diversion	Transition	Parole	Total
Standard Residential	1,183	1,111	109	2,403
Cognitive Behavioral Treatment Pilot	48	-	-	48
Intensive Residential Treatment	39	43	74	156
Inpatient Therapeutic Community	78	49	15	142
Residential Dual Diagnosis Treatment	71	46	14	131
Sex Offender	57	20	13	90
Standard Non-Residential	574	5	5	584
Outpatient Day Treatment	2	-	-	2
Outpatient Therapeutic Community	55	25	6	86
Total	2,107	1,299	236	3,642

Assumptions. The fiscal note assumes that the required notifications to district attorneys, chief judges, and the state public defender do not require additional workload for these individuals.

State Expenditures

This bill increases state General Fund expenditures by \$72,800 in the current FY 2017-18 and, on net, is expected to reduce costs in future years.

Department of Corrections. One-time costs of \$72,800 in the current FY 2017-18 are required for 650 hours of computer programming to modify DOC computer systems to track population changes in accordance with the bill's requirements. This workload will be completed by the Office of Information Technology (OIT). Workload will also increase for the DOC to make the required notifications as outlined in the bill.

Following implementation of the bill, and to the extent that inmates are released on parole or placed in a community corrections bed, costs will be reduced for the department. For context, it costs an average of \$104.51 per offender, per day in a state-operated prison or \$60.47 per offender, per day in a private contract prison. If an offender is paroled, the cost per offender, per day is \$13.03. Thus, for each offender that is placed on parole, the savings to the DOC ranges between \$47.44 and \$91.48 per offender, per day. Because the variables outlined in the bill depend on a number of factors and the discretion exercised by the DOC, the Parole Board, and local Community Corrections Boards, the precise fiscal impact to the DOC cannot be determined at this time. The fiscal note assumes that any reductions in appropriations required for the DOC in the future will be addressed through the annual budget process.

State Parole Board. Workload increases for the State Parole Board to conduct additional file reviews and meet the timelines required by the bill. This workload increase is assumed to be minimal and does not require additional appropriations.

Department of Public Safety. If additional offenders are placed in community corrections beds, costs for the department could increase. As noted above, there are currently vacancies within funded community corrections beds; therefore, the fiscal note assumes that no changes in appropriations are required for the DPS at this time. If the DPS requires additional appropriations in the future, the department can request them through the annual budget process.

Effective Date

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

State Appropriations

For the current FY 2017-18, the bill requires an appropriation of \$72,800 General Fund to the Department of Corrections, the entire amount of which should be reappropriated to the OIT in the Governor's Office.

State and Local Government Contacts

Corrections
Information Technology

District Attorneys
Judicial

Governor
Public Safety