



Legislative Council Staff

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FISCAL NOTE

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Prime Sponsors: Sen. Merrifield Bill Status: Senate SVMA
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Bill Topic: PROHIBIT MULTI-BURST TRIGGER ACTIVATORS

- Summary of Fiscal Impact: State Revenue (minimal), State Expenditure, State Transfer, TABOR Refund, Local Government (minimal), Statutory Public Entity

This bill makes possessing, selling, or purchasing a "multi-burst trigger activator" a class 4 or 5 felony depending on the circumstances. The bill will increase state revenue and expenditures and increase workload for district attorneys.

Appropriation Summary: This bill requires a five-year General Fund appropriation of \$78,668 to the Department of Corrections.

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

Table 1 State Fiscal Impacts Under SB 18-051

Table with 4 columns: Revenue, Expenditures, Transfers, FY 2018-19, FY 2019-20. Rows show General Fund and Cash Funds, General Fund, and less than \$5,000.

## **Summary of Legislation**

This bill defines "multi-burst trigger activator", commonly known as bump stocks, and makes possessing, selling, or purchasing one a class 5 felony and each subsequent offense a class 4 felony.

## **Comparable Crime**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill adds possessing a bump stock to the crime of possessing a dangerous weapon and creates the crime of selling or purchasing a bump stock.

**Possession of a dangerous weapon.** From January 2015 to January 2018, 77 people were convicted of possessing a dangerous weapon. Of those convictions, 73 were male and 4 were female; demographically, 57 were Caucasian, 9 were Hispanic, 6 were African American, 3 were Asian, and 2 were classified as other. In FY 2016-17, 6 offenders were sentenced to the Department of Corrections (DOC) with possessing of a dangerous weapon as their most serious charge.

**Illegal firearm purchase.** Under current law, it is a class 4 felony if an individual purchases a firearm for someone who cannot own a firearm legally. From January 2015 to January 2018, there were 4 convictions; of which 3 were male, 1 was female; 2 were Caucasian, and 2 were African American. This data is used for comparable purposes for the purchasing of bump stocks.

**Possession, sale, or transfer of large-capacity magazines.** Under current law, possession, selling, or transferring of a high capacity magazine is a class 2 misdemeanor. It is upgraded to a class 6 felony if the offender possesses a high capacity rifle while committing another crime. From January 2015 to January 2018, 3 were convicted of this class 2 misdemeanor, of which all 3 were male; 2 were Caucasian and 1 was African American, and 1 African American male was convicted of having a high capacity magazine while committing a crime. Because bump stocks are often used in conjunction with large-capacity magazines, this data is used for comparable purposes.

## **Assumptions**

Based on the conviction data for specified offenses above, this fiscal note assumes that convictions for possessing, selling, or purchasing "multi-burst trigger activators" will be minimal. For this analysis, it is assumed there will be 2 class 5 felony convictions for possession, selling, or purchasing of a bump stock resulting in 2 sentences to the DOC every 5 years. These offenders will have an average length of stay of 17.4 months in prison. The fiscal note assumes that there will be no class 4 felony cases in the first five years.

## **State Revenue**

Beginning in FY 2018-19, this bill is anticipated to increase state revenue by less than \$5,000 per year.

**Criminal fines.** The 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 fine penalty for a class 5 felony offense is \$1,000 to \$100,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed by the courts, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

**Court and administrative fees.** The bill will also increase state fee revenue by a minimal amount credited to the General Fund and various cash funds starting in FY 2018-19. Fees are imposed for a variety of court-related costs, which vary based on the offense but may include probation supervision, drug or sex offender surcharges, victim compensation, and late fees, among others. Based on the assumed number of convictions, revenue from court and administrative fees will be minimal.

### **TABOR Refund**

The bill increases state revenue subject to TABOR by less than \$5,000 per year in FY 2018-19 and FY 2019-20. State revenue is not currently expected to exceed the TABOR limit in either year and no refund is required. Therefore, the bill is not expected to impact TABOR refunds in these years. However, refunds in future years when the state next collects a TABOR surplus will be increased.

### **State Expenditures**

Beginning in FY 2018-19, this bill increases workload and state expenditures in the Judicial Department and agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. It also increases state General Fund expenditures in the Department of Corrections as shown in Table 2.

**Judicial Department.** This bill increases workload in the trial courts to hear bump stock cases. This workload increase to trial courts can be accomplished within existing appropriations.

**Agencies providing representation to indigent persons.** Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel (OADC) will increase under the bill. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process. For informational purposes, it costs the OADC, on average, \$900 for representing a class 5 felony case and \$1,320 for a class 4 felony case.

**Department of Corrections.** This bill increases prison bed and parole costs for the DOC by \$78,668 between FY 2018-19 and FY 2022-23.

**Prison beds.** This bill is anticipated to increase state General Fund expenditures for the DOC by an estimated \$44,143 in FY 2019-20 and \$20,012 in FY 2020-21. This increase assumes at least 2 offenders will be sentenced to prison for a class 5 felony every 5 years and have an average length of stay of 17.5 months. The fiscal note assumes no impact will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. If impacts arise in the first year, this analysis assumes the DOC will request any required appropriations through the annual budget process. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2  
Prison Costs Under SB 18-051**

|                   | <b>Inmate Bed Impact</b> | <b>Operating Cost</b> |
|-------------------|--------------------------|-----------------------|
| <b>FY 2018-19</b> | 0                        | \$0                   |
| <b>FY 2019-20</b> | 2                        | \$44,143              |
| <b>FY 2020-21</b> | 0.91                     | \$20,012              |
| <b>FY 2021-22</b> | 0                        | \$0                   |
| <b>FY 2022-23</b> | 0                        | \$0                   |
| <b>Total Cost</b> | <b>2.91</b>              | <b>\$64,155</b>       |

**Parole.** Once an offender is released from prison, he or she is assigned to parole for a period of 18.3 months for a class 5 felony. No impact is expected until the first year's cohort of offenders is released to parole, which is expected in FY 2020-21. Table 3 shows the estimated cost of parole over the next five fiscal years.

**Table 3  
Parole Costs Under SB 18-051**

|                   | <b>Annualized Parole Impact</b> | <b>Annualized Operating Cost</b> |
|-------------------|---------------------------------|----------------------------------|
| <b>FY 2018-19</b> | 0                               | \$0                              |
| <b>FY 2019-20</b> | 0                               | \$0                              |
| <b>FY 2020-21</b> | 1.09                            | \$5,200                          |
| <b>FY 2021-22</b> | 1.96                            | \$9,314                          |
| <b>FY 2022-23</b> | 0                               | \$0                              |
| <b>Total Cost</b> | <b>3.05</b>                     | <b>\$14,514</b>                  |

For additional information about costs in fiscal notes for bills affecting the Department of Corrections, please visit: [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes).

**Local Government Impact**

Under the bill, district attorneys will have an increase in workload to prosecute the new crime. However, because of the low number of cases, this workload increase is expected to be minimal.

**Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

**State Appropriations**

In FY 2018-19, the bill requires a five-year General Fund appropriation of \$78,668 to the DOC.

**State and Local Government Contacts**

Corrections  
Judicial  
Public Safety

Counties  
Sheriffs  
Municipalities

District Attorneys  
Natural Resources  
Information Technology