



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0949	Date:	February 20, 2024
Prime Sponsors:	Sen. Gardner Rep. Evans	Bill Status:	Senate Judiciary
		Fiscal Analyst:	Aaron Carpenter 303-866-4918 aaron.carpenter@coleg.gov

Bill Topic: **WEAPONS POSSESSION PREVIOUS OFFENDER ADD CRIMES**

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> Local Government
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> TABOR Refund	<input type="checkbox"/> Statutory Public Entity

The bill adds motor vehicle theft and certain drug distribution offenses to the crime of possession of weapons by previous offenders. It will increase state expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

**Table 1
State Fiscal Impacts Under SB 24-107**

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-
Expenditures	General Fund	-	\$48,560
Transfers		-	-
Other Budget Impacts	General Fund Reserve	-	\$7,284

Summary of Legislation

Under current law, it is a class 5 felony offense for a person previously convicted of certain felonies to possess, use, or carry a firearm (referred to as possession of weapons by previous offenders (POWPO) offenses). The bill adds the following felonies to the list of POWPO offenses:

- drug manufacture, dispensation, sale, and distribution;
- drug possession with intent to manufacture, dispense, sell, and distribute; and
- first and second degree motor vehicle theft.

Background

In 2021, the Colorado General Assembly passed [Senate Bill 21-271](#) which reclassified a number of misdemeanors and other crimes starting on March 1, 2022. As part of the reclassification, the bill made POWPO a class 5 felony and removed a number of crimes that prohibited a previous offender from possessing a firearm. In 2022, the General Assembly passed [House Bill 22-1257](#), which added back certain felony convictions that prohibit a person from possessing a firearm.

Comparable Crime Analysis

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 creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data. This bill creates new factual bases for POWPO offenses. From FY 2020-21 to FY 2022-23, 2,742 individuals have been convicted and sentenced for POWPO offenses. Of the persons convicted, 2,594 were male, 143 were female, and 5 did not have a gender identified. Demographically, 1,928 were White, 591 were Black/African American, 154 were Hispanic, 16 were Asian, 24 were American Indian, 26 were classified as "Other," and 3 did not have a race identified.

Assumptions. Based on an analysis of POWPO criminal histories and sentencing conducted by the Judicial Department, the fiscal note estimates that 20 additional cases per year will result from the bill, with 8 additional sentences to probation and 2 additional sentences to the Department of Corrections (DOC). The average DOC length of stay for a class 5 felony is 14.8 months with an average parole length of stay of 18.5 months once the offender is released from prison. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Criminal fines and court fees. By modifying an existing felony offense, the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2024-25, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund, which are subject to TABOR. The fine penalty for a class 5 felony ranges

from \$1,000 to \$100,000. Additionally, court fees may be imposed for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, the revenue impact cannot be determined.

State Expenditures

Beginning in FY 2024-25, this bill increases workload and costs in the Judicial Department. It will also increase state General Fund expenditures in the Department of Corrections, as discussed below.

Judicial Department. This bill will minimally increase workload and costs for the trial courts in the Judicial Department to process additional criminal case filings. The bill also minimally increases Division of Probation workload; based on the assumed number of probation sentences under the bill, this impact is expected to be absorbable within current resources. Workload and costs may increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Counsel. Overall, workload impacts are assumed to be minimal. If additional resources are required, this will be addressed through the annual budget process.

Department of Corrections. Section 2-2-701, C.R.S., requires Legislative Council Staff to provide information to the General Assembly on long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the DOC. These impacts are described below.

- **Prison and parole costs (five-year fiscal impact).** Based on the assumptions provided above, this bill increases prison operating costs for the DOC by a total of \$293,000 over the five-year period beginning in FY 2024-25, as shown in Table 2. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Offenders are assigned to parole after release from prison; as outlined in the assumptions section, this impact will first occur in FY 2026-27.

**Table 2
Prison and Parole Operating Costs Under SB 24-107**

Fiscal Year	Prison ADP Impact	Prison Cost	Parole ADP Impact	Parole Cost	Total Costs
FY 2024-25	-	-	-	-	-
FY 2025-26	2.00	\$48,560	-	-	\$48,560
FY 2026-27	2.47	\$59,931	1.53	\$12,847	\$72,778
FY 2027-28	2.47	\$59,931	3.09	\$25,890	\$85,821
FY 2028-29	2.47	\$59,931	3.09	\$25,890	\$85,821
				Total	\$292,979

- **Department of Corrections capital construction costs.** In addition to the five-year operating and parole impacts discussed above, Section 2-2-703, C.R.S., requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$440,526 would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

District attorneys. By changing the elements of POWPO offenses, the bill will increase workload and costs for district attorneys to prosecute these cases. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to offenses on or after this date.

State and Local Government Contacts

Corrections

District Attorneys

Judicial

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).