



Fiscal Note

Legislative Council Staff

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SB 26-036: PRISON POPULATION MANAGEMENT MEASURES

Prime Sponsors:
Sen. Gonzales J.; Weissman
Rep. Bacon; Zokaie

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Fiscal note status: This revised fiscal note reflects the introduced bill, as amended by the Senate Judiciary Committee.

Summary Information

Overview. The bill increases the vacancy rate used to determine when prison population management measures (PPMM) take effect from 3 percent to 4 percent, and makes other changes to PPMM.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

Appropriations. For FY 2026-27, the bill requires a net increase in appropriations of \$412,679 to the Department of Corrections and the Department of Public Safety.

Table 1
State Fiscal Impacts

| Type of Impact | Budget Year FY 2026-27 | Out Year FY 2027-28 | Out Year FY 2028-29 |
|-------------------------|---------------------------|------------------------|------------------------|
| State Revenue | \$0 | \$0 | \$0 |
| State Expenditures | \$476,775 | -\$27,325 | Not estimated |
| Transferred Funds | \$0 | \$0 | \$0 |
| Change in TABOR Refunds | \$0 | \$0 | \$0 |
| Change in State FTE | 3.0 FTE | 3.0 FTE | Not estimated |

Ongoing impacts in FY 2028-29 and beyond, including required FTE, will depend on the prison vacancy rate and whether PPMM are in effect, and have not been estimated. It is assumed ongoing costs and savings related to the prison population will be addressed through the annual budget process based on actual and forecasted prison populations.

**Table 1A
State Expenditures**

| Fund Source | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|---------------------------|-----------------------------------|--------------------------------|
| General Fund | \$412,679 | -\$91,421 |
| Cash Funds | \$0 | \$0 |
| Federal Funds | \$0 | \$0 |
| Centrally Appropriated | \$64,096 | \$64,096 |
| Total Expenditures | \$476,775 | -\$27,325 |
| Total FTE | 3.0 FTE | 3.0 FTE |

Summary of Legislation

Under current law, when the vacancy rate in the Colorado Department of Corrections (CDOC) falls below 3 percent for 30 consecutive days, the department must make certain notifications and identify eligible individuals to submit to the Parole Board for release. This bill increases the vacancy rate for when prison population management measures (PPMM) are triggered and makes several changes to PPMM, as described below.

Increased Vacancy Rate for Prison Population Management Trigger

The bill increases the vacancy rate used to determine when PPMM take effect from 3 percent to 4 percent. In addition, the bill requires that the PPMM stay in effect until the vacancy rate exceeds 5 percent for 30 consecutive days. The bill also changes how the vacancy rate is calculated by including inmates under the jurisdiction of the CDOC in the jail backlog, less the first 400 inmates in the backlog.

Required Notifications

When PPMM thresholds are met, the bill sets a 48-hour deadline for the CDOC to provide notification to a list of affected entities. The bill adds to the list of affected entities the General Assembly, community corrections programs, the Office of the Alternate Defense Counsel (OADC), the chief probation officer in each Judicial District, the Division of Adult Parole in CDOC, and each county sheriff to the list. Entities receiving notice must acknowledge receipt. The CDOC must also notify all entities if the vacancy rate exceeds 5 percent for 30 consecutive days.

The bill also requires district attorneys, the Office of the State Public Defender (OSPD), the OADC, each chief judge, parole officers, and each chief probation officer to notify employees of the vacancy rate and to encourage alternative sentencing options, when appropriate.

Finally, the bill requires the CDOC to notify the Governor and the Parole Board every 30 days while the PPMM are in effect and provide estimates of the reduction in inmate population needed to achieve a 5 percent vacancy rate.

Prison Population Management Measures

The bill makes several changes to the PPMM, including requirements around community corrections, mandatory release dates, conditional releases, and parole eligible inmates. The bill also adds resentencing considerations for new court commits to the CDOC within 90 days of their parole eligibility date (PED).

Community Corrections

Under the bill, when the PPMM are in effect, the CDOC must request the Office of Community Corrections in the Department of Public Safety (CDPS) to provide information regarding available community corrections beds. In addition, the CDOC must request that:

- community corrections providers review each transition inmate who has resided in the program for more than 180 days and who meets the objectives for an intensive supervision program, and create a list of intensive supervision program-eligible transition inmates with employment and housing options, of which the CDOC must investigate and approve a residence plan;
- CDOC's case managers review the eligibility of each inmate for community corrections program placement and initiate a referral; and
- the Office of Community Corrections investigate expanding the capacity for transition beds.

Mandatory Release Date

Under the current PPMM, the CDOC requests that the Parole Board review a list of inmates who are within 90 days of their mandatory release date (MRD), have an approved parole plan, and do not require a full board review or victim notification. The bill removes the requirement of having an approved parole plan.

Conditional Releases

Under current law, the CDOC coordinates with the Parole Board to review a list of inmates who have satisfied their conditions of release and do not require a full board hearing or victim notification. This bill requires that list to be submitted within 14 days after notification of the PPMM, and every 30 days thereafter. The CDOC must also inform the Parole Board if a listed inmate has satisfied the conditions required for release. If a specific condition relates to completing a program that has not been satisfied, the Parole Board must determine whether the condition can be satisfied after release and mandated as a condition of parole.

Parole Eligible Individuals

Under current law, the CDOC must submit to the Parole Board a list of individuals with favorable parole plans and who have been assessed to be medium- or low-risk on the validated risk assessment scale. The Parole Board must conduct a file review of each individual and set conditions of release. This provision only applies to individuals who are:

- serving a sentence for a level 3 or 4 drug felony, or a class 3, 4, 5, or 6 nonviolent felony offense;
- serving a sentence for a non-VRA or sex offender registration crime;
- does not have a class I code of penal discipline violation within the previous 12 months;
- has not been terminated for lack of progress and has not declined to participate in programs that have been recommended and available to the inmate with the last year;
- has not regressed from community corrections or revoked from parole within the previous 180 days; and
- does not have a pending felony charge, detainer, or an extraditable warrant.

This bill adds inmates who have been classified as minimum or minimum restrictive custody and who are past their PED to this list, and removes all but the second and third requirements from the list above. The Parole Board must consider the list as an individual application for parole for each inmate. If an inmate has a pending felony charge, detainer, or extraditable warrant, and who would otherwise be eligible for parole, the CDOC must notify the OSPD liaison to determine if the matter can be resolved on a forthwith basis.

Resentencing of Certain New Court Commits

When PPMs are in effect, the bill requires the CDOC, within 14 days after an individual is admitted to its custody as a new court commit, to notify the sentencing court if the individual:

- is past or within 90 days of their PED;
- the individual is not serving a sentence for a VRA crime or a sex offender registration crime; and
- the prison sentence is not the result of a plea agreement.

If the court receives a motion for reconsideration, the court may grant the motion with or without scheduling a hearing and must decide the matter within 35 days.

Reentry Program

The bill allows the CDOC to refer an inmate released due to the above sections to a community-based reentry program.

Additional PPMM

If the vacancy rate does not reach 5 percent within 120 days after notifying that PPMM are in effect, the bill requires the CDOC to submit to the Parole Board and the Governor a list of individuals who are serving a sentence and are eligible for parole and are recommended for transfer to community corrections or any other form of release.

The bill also allows:

- the Parole Board to release an inmate who is not serving for a VRA or sex offender registration crime 90 days earlier than their PED;
- the CDOC to refer an inmate to community corrections; and
- the Governor to consider and grant a commutation of a sentence.

Reporting

The bill requires the CDOC to report for budgeting on the current population in the local jail backlog by county and its compliance with the PPMM.

Background

Community Corrections Transition Placements

Community Corrections programs, also called “halfway houses” are locally run, state funded and supervised programs that provide supervision as an alternative sentence to the CDOC (called diversion placement), or as a transition for individuals in prison to reenter society (called a transition placement). Transition placements may be referred by the CDOC director or the Parole Board. Programs may be residential, where an individual stays at a facility and is closely monitored, and non-residential when the individual does not live at a facility but does meet with case managers and satisfy other requirements. For [FY 2024-25](#), community correction programs supervised 3,904 clients, of which 1,746 were placed in a program either as a transition from the CDOC or as a condition of parole.

Jail Backlog

Based on the [February Monthly report](#), the CDOC reports a jail backlog of 670 individuals due to vacancy issues within the CDOC. By freeing up beds through releasing individuals, the bill, at least in the short-term, will reduce the backlog and decrease the cost of jail reimbursement payments paid by the department. Currently, the jail reimbursement rate is \$77.16 per day, or \$28,163 per year, and parole costs \$22.98 per day, or \$8,388 per year, resulting in a cost difference of \$19,776 per individual released on parole.

Assumptions

The sections below outline assumptions regarding the fiscal impacts of initial and additional PPMM. These impacts are only realized when PPMM are in effect. The fiscal note assumes that PPMM will be in effect at least through FY 2027-28, however, the exact timing of when PPMM are in effect will depend on decisions made by the Parole Board, CDOC, the Governor, and the General Assembly.

Primary Changes to Prison Population Management Measures

The bill changes several mechanisms that may increase releases when PPMM are in effect. The sections below outline the various assumptions for each of these mechanisms and how they are assumed to impact releases. Based on these assumptions, the fiscal note estimates the bill will result in at least 19 individuals released from the CDOC in FY 2026-27 and FY 2027-28.

Community Correction Transitions

While the bill provides additional information on bed availability in community correction programs, decisions to transition an inmate to a program remain at the discretion of the CDOC, the local community corrections board, and providers. Therefore, the fiscal note cannot provide an estimate on the number of additional individuals who will receive a community correction transition placement under this bill.

Mandatory Release

According to an initial review by the CDOC, there are an additional 12 individuals (as of April 16, 2026) who would be eligible for earlier release under the bill due to their current MRD. According to the Parole Board's SMART Act presentation, for the first 5 months of the current PPMM, the board released 0 individuals from the MRD list. Due to that, the fiscal note assumes a continual minimal increase in MRD releases.

Conditional Release

The bill requires the CDOC to notify the Parole Board when an inmate has completed one of their conditions for release, or for the Parole Board to release an individual if a condition can be met in the community. It is unknown how many inmates are waiting for release even though they have completed their conditions; however, the fiscal note assumes it is a minimal amount.

Parole Eligibility

Under the conditions outlined in the bill, the CDOC estimates that an additional 152 individuals meet the eligibility requirements to be potentially released to parole. According to the Parole

Board’s SMART Act presentation, for the first 5 months of the current PPMM, the board released 29 individuals from a list of 237, which includes individuals that the board found ineligible. Using that ratio (12 percent), it is assumed that if the CDOC submits an additional 152 individuals, and a similar amount is found ineligible or denied parole, the bill will result in an additional 19 individuals released. Assuming a similar number of parole eligible individuals are submitted each year, this impact is ongoing. The fiscal note assumes that releases due to parole eligibility will occur at least a year earlier, on average, than under current law.

Resentencing

The bill allows a court to resentencing certain individuals who are within 90 days of their PED when they are sentenced to the CDOC. Because the bill applies to only a specific circumstance and does not apply to VRA crimes or sex offender registration crimes, the number of individuals going to a rehearing and potentially receiving an alternate sentence is assumed to be minimal.

Additional Prison Population Management Measures

The bill allows the Parole Board, the CDOC, or the Governor to release additional individuals if the vacancy rate is not above 5 percent after 180 days. Because these releases are discretionary, the fiscal note has not made an estimate of how this provision will impact releases.

State Expenditures

On net, the bill increases state expenditures by \$477,000 in FY 2026-27 and decreases expenditures by \$27,000 in FY 2027-28. Costs and savings are from the General Fund and will be incurred in the CDOC and the CDPS, as shown in Table 2 and described in the sections below.

Table 2
State Expenditures
All Departments

| Department | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|-----------------------------|-----------------------------------|--------------------------------|
| Department of Corrections | -\$172,448 | -\$190,548 |
| Department of Public Safety | \$649,223 | \$163,223 |
| Total Costs | \$476,775 | -\$27,325 |

Department of Corrections

The CDOC will have staff and parole costs as well as jail backlog savings beginning in FY 2026-27, as described below and shown in Table 2A.

Staff

The CDOC requires 1.0 FTE case manager and 1.0 FTE technician to create required notifications and eligibility lists and ensure their accuracy, provide required reporting, and coordinate with community correction boards. These costs will be incurred each time the vacancy rate falls below 4 percent. The fiscal note assumes these costs are required through FY 2027-28. In future years, PPM will depend on decisions made by the General Assembly regarding the prison population, and will be addressed through the annual budget process. Staff costs assume a July 1, 2026, start date and include standard operating and capital outlay costs, as well as costs for required staff trainings.

Jail Backlog Costs

The bill is estimated to decrease expenditures in jail backlog costs by at least \$535,000 in the next two fiscal years assuming the release of the equivalent of 19 individuals per year, as outlined in the Assumptions section above. This estimate will also be affected by additional individuals placed in community corrections, on parole, or resentenced. Since those releases or resentencing are at the discretion of the Parole Board, community correction boards, and the courts, savings will vary from this amount.

Parole Costs

Proportionally to jail backlog costs, the bill increases parole-related costs by an estimated \$160,000 in the next two fiscal years. In future years, costs will increase to the extent additional persons are released to parole earlier, transitioned to community correction, or resentenced by the courts.

**Table 2A
 State Expenditures
 Department of Corrections**

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$140,511 | \$140,511 |
| Operating Expenses | \$2,560 | \$2,560 |
| Capital Outlay Costs | \$14,000 | \$0 |
| Jail Backlog Costs | -\$535,105 | -\$535,105 |
| Parole Costs | \$159,366 | \$159,366 |
| Training Costs | \$4,150 | \$50 |
| Centrally Appropriated Costs | \$42,070 | \$42,070 |
| Total Costs | -\$172,448 | -\$190,548 |
| Total FTE | 2.0 FTE | 2.0 FTE |

Department of Public Safety

CDPS will have costs to modify to the community correction billing system and for staff to manage additional data, as described below and shown in Table 2B.

Staff

From FY 2026-27 through FY 2027-28, the CDPS requires 1.0 FTE to coordinate data submission, to assist community correction programs in reporting, to ensure data reports are accurate with the various community correction boards, and to provide additional research on expanding beds. Staff assumes a July 1 start date, and includes standard operating and capital outlay costs as well as costs for training and statistical analysis software.

Billing System Upgrades

In FY 2026-27, the bill increases expenditures by \$523,000 to make modifications to the Community Correction Information and Billing System to collect and report required data. In FY 2027-28, costs are \$44,000 for maintenance and hosting.

Community Corrections Beds

To the extent additional individuals are placed in community correction beds instead of remaining in the CDOC, costs to pay for their beds may increase. The General Assembly appropriates payments through the Long Bill to cover the costs of a certain number of beds. The fiscal note assumes that community correction programs will determine placement in their programs based on the current appropriation, and the number of beds available. If no beds become available due to demand, the fiscal note assumes the General Assembly will adjust appropriations through the annual budget process.

**Table 2B
 State Expenditures
 Department of Public Safety**

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$80,916 | \$80,916 |
| Operating Expenses | \$1,280 | \$1,280 |
| Capital Outlay Costs | \$7,000 | \$0 |
| Training and Software Costs | \$15,000 | \$15,000 |
| Billing System Upgrades | \$523,000 | \$44,000 |
| Centrally Appropriated Costs | \$22,026 | \$22,026 |
| Total Costs | \$649,222 | \$163,222 |
| Total FTE | 1.0 FTE | 1.0 FTE |

Judicial Department

The bill increases workload in the Judicial Department to hear additional resentencing hearings. As outlined in the assumption section, the fiscal note assumes that resentencing hearings will be minimal and therefore, no change in appropriation is required. In addition, to the extent these hearings result in probation sentences in lieu of CDOC sentences, costs in probation will increase. Similar to the trial courts, any increase is assumed to be minimal.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

Local Government

Workload to community correction programs run by local governments will increase to provide additional information to the CDOC. To the extent additional individuals are placed in their care, costs will increase to provide services for those individuals, which are offset by state funding.

Effective Date

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

State Appropriations

For FY 2026-27, the bill requires a net increase in General Fund appropriations of \$412,679, including:

- a reduction of \$214,517 to the Department of Corrections, with an increase of 2.0 FTE; and
- an increase of \$627,196 to the Department of Public Safety, and 1.0 FTE.

Departmental Difference

The CDOC estimates the bill will increase costs by \$564,000 and 6.0 FTE in FY 2026-27 and \$557,000 and 6.0 FTE in FY 2027-28 and future years. This is based on two assumptions: first, that the jail backlog will outgrow any savings identified in the fiscal note, resulting in minimal savings from any releases, and second, that more staff is required to conduct the time computation and reporting required by the bill.

The fiscal note shows savings, due to the assumption that the General Assembly will fund the jail backlog under current law requirements as it considers the FY 2026-27 budget. If the jail backlog outgrows these expectations, additional funds should be requested through the annual budget process, not through the fiscal note. In addition, the fiscal note estimates that 4.0 FTE is sufficient for the work required by the bill.

State and Local Government Contacts

Corrections

Judicial

District Attorneys

Public Safety