



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 20-1152

FISCAL NOTE

Drafting Number: LLS 20-0656
Prime Sponsors: Rep. Liston

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Bill Status: House Judiciary
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Bill Topic: PENALTY FOR WEAPONS POSSESSION OFFENSES

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

This bill changes the sentences for offenders who commit the offenses of illegally possessing a firearm. Starting in FY 2021-22, the bill will decrease state revenue and increase state expenditures on an ongoing basis.

Appropriation Summary: This bill requires a total five-year appropriation of \$2.5 million to the Department of Corrections. In addition, capital construction funding of \$2.3 million may be appropriated. See State Appropriations section.

Fiscal Note Status: This fiscal note is provided pursuant to Joint Rule 22 (b) (2) and reflects strike-below Amendment L.002. While all agencies were canvassed for this fiscal note, not all agencies were able to respond with complete information within the time frames provided. The fiscal note will be updated if more information becomes available.

Table 1
State Fiscal Impacts Under HB 20-1152

Table with 3 columns: Category, FY 2020-21, FY 2021-22. Rows include Revenue, Expenditures (General Fund), Transfers, and TABOR Refund.

## Summary of Legislation

This bill requires an adult offender convicted of a second or subsequent offense for illegal possession of a weapon by a previous offender, which can range from a class 6 felony to a class 4 felony, to be sentenced to the Department of Corrections (DOC). Individuals convicted of the class 4 felony must serve their sentence consecutively with any other sentences being served.

## Data and Assumptions

Using Judicial Department data, in the last three years there was an average of 442 individuals per year sentenced to probation under the illegal possession of a firearm by a previous offender offense. It is assumed that 390 of these cases were class 6 felonies. To calculate the impact on the DOC, the fiscal note assumes that around 5 percent of these class 6 felonies, or 20 cases are second or subsequent offences and will be sentenced to the DOC instead of probation under the bill. The average length of stay for a class 6 felony is 7.8 months in the DOC with 9.6 months on parole.

The fiscal note assumes that any individual convicted of a second or subsequent class 4 or 5 felony offense for illegal possession of a weapon by a previous offender is already sentenced to the DOC.

## State Revenue

Starting in FY 2021-22, state cash fund revenue to the Offender Services Cash Fund in the Judicial Department will decrease by a minimal amount. Currently, offenders on probation pay a \$50 per month probation supervision fee. Based on the number of assumed offenders being sentenced to the DOC instead of probation, the decrease in revenue is expected to be minimal.

## State Expenditures

The bill will increase state General Fund expenditures by a total of at least \$2.5 million in the DOC over a five-year period, and may increase future capital construction costs in the DOC. The bill also decreases state General Fund expenditures in the Judicial Department by a minimal amount. These impacts are described below.

**Department of Corrections – operating and parole costs (five-year fiscal impact).** Based on the assumptions provided in the Background and Assumption section, this bill increases prison operating costs for the DOC by a total of \$2.5 million over the five-year period beginning in FY 2020-21. 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 and costs are prorated for the September 1, 2020, effective date. Once an offender is released from prison, he or she is assigned to parole. Costs in FY 2021-22 are prorated to reflect that Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2  
 Prison and Parole Costs Under HB 20-1152**

<b>Prison Costs</b>	<b>Avg. Daily Pop.</b>	<b>Operating Cost</b>
FY 2020-21		-
FY 2021-22	11	\$463,980
FY 2022-23	13	\$556,776
FY 2023-24	13	\$556,776
FY 2024-25	13	\$556,776
<b>Prison (Subtotal)</b>		<b>\$2,134,308</b>
<b>Parole Costs</b>	<b>Avg. Daily Pop.</b>	<b>Operating Cost</b>
FY 2020-21		-
FY 2021-22	6	\$33,950
FY 2022-23	16	\$93,986
FY 2023-24	16	\$93,986
FY 2024-25	16	\$93,986
<b>Parole (Subtotal)</b>		<b>\$315,908</b>
	<b>TOTAL</b>	<b>\$2,450,216</b>

**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 \$2.3 million 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 and a reappropriation of this funding 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.

**Department of Corrections – consecutive sentencing.** In addition, starting in FY 2021-22, the amount of time an offender may stay in the DOC will increase to the extent offenders committed of a second or subsequent offense must serve their time consecutively. The fiscal note assumes that any increase in time will fall outside the five-year estimate in this fiscal note and that any changes in appropriations will be addressed through the annual budget process.

**Judicial Department.** State expenditures in the Probation Division of the Judicial Department will decrease by a minimal amount starting in FY 2021-22. Based on the assumed number of offenders being sentenced to the DOC instead of probation, the fiscal note assumes that the decrease in workload does not require a change in expenditures.

**TABOR refunds.** The bill is expected to decrease state General Fund obligations for TABOR refunds by a minimal amount in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly decrease the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Local Government

Starting in FY 2021-22, workload to district attorney office's may increase to the extent cases take longer due to the mandatory sentence to the DOC. In addition, expenditures in county jails may decrease to the extent that any felony 6 offenses are sentenced to the DOC instead of county jail.

## Effective Date

The bill takes effect September 1, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed and applies to any offenses committed on or after this date.

## State Appropriations

Starting in FY 2020-21, this bill requires a General Fund appropriation of \$2,628,687 for the five-year DOC operating impacts identified in Table 3.

As discussed in the DOC capital construction costs section above, the General Assembly may appropriate \$2,329,047 for prison bed construction, if needed.

## State and Local Government Contacts

Corrections

Information Technology

Judicial

Public Safety