



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1214: APPROPRIATE USE OF PRISON BEDS

Prime Sponsors:

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Published for: House Judiciary**Drafting number:** LLS 25-0731**Version:** Initial Fiscal Note**Date:** March 10, 2025**Fiscal note status:** This fiscal note reflects the introduced bill.

Summary Information

Overview. The bill requires a court determination that incarceration is the most appropriate course of action for class 5 and 6 felonies, changes parole considerations for low-risk offenders, and amends statute around drug programming for parolees to reflect current practice.

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

- State Expenditures
- Local Government

Appropriations. For FY 2025-26, the bill requires a net appropriation of \$580,000 to multiple state agencies.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$6,678	\$19,242	\$39,276	\$46,080
State Expenditures	\$793,809	-\$204,916	-\$1,375,386	-\$1,940,202
Transferred Funds	\$0	\$0	\$0	\$0
Change in TABOR Refunds	\$6,678	\$19,242	not estimated	not estimated
Change in State FTE	10.6 FTE	14.8 FTE	15.4 FTE	15.4 FTE

**Table 1A
 State Revenue**

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	\$0	\$0	\$0	\$0
Cash Funds	\$6,678	\$19,242	\$39,276	\$46,080
Total Revenue	\$6,678	\$19,242	\$39,276	\$46,080

**Table 1B
 State Expenditures**

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
General Fund	\$579,707	-\$504,075	-\$1,686,613	-\$2,251,429
Cash Funds	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0
Centrally Appropriated	\$214,102	\$299,159	\$311,227	\$311,227
Total Expenditures	\$793,809	-\$204,916	-\$1,375,386	-\$1,940,202
Total FTE	10.6 FTE	14.8 FTE	15.4 FTE	15.4 FTE

Summary of Legislation

The bill requires a court determination that incarceration is the most appropriate course of action for class 5 and 6 felonies, changes parole considerations for low-risk offenders, and amends statute around drug programming for parolees to reflect current practice, as described below.

Court Determinations for Class 5 and 6 Felonies

For any class 5 or 6 felonies sentenced to the Department of Corrections (DOC), the bill requires that the court to find:

- that incarceration is the most suitable option; and
- all other reasonable and appropriate sanctions and supportive services available to the court have been tried and failed, do not appear likely to be successful, or present an unacceptable risk to public safety.

When making this determination, the court must review available information from the supervising agency on what alternative sentences have been tried, the availability of other options, the likelihood of success, and a risk assessment.

Court Notification of Parole Eligibility Date

The bill requires the DOC to notify the court when an offender who was found guilty of a class 5 or 6 felony or level 3 or level 4 drug felony is admitted to the DOC and is either past or within 90 days of their parole eligibility date in the sentenced case. When a court receives the notification, the court must notify the defense and the prosecution and request the defendant file a motion for reconsideration. The court must schedule the hearing, if requested, within 35 days of filing, and may impose an alternative sentence.

Presumption of Parole for Low-Risk Offenders

The bill creates a presumption, subject to the discretion of the Parole Board, to grant parole to an offender who:

- has been assessed to be low or very low risk on the validated risk assessment scale;
- has not incurred a class I code of penal discipline violation within the previous 12 months;
- has not declined to participate in recommended programs within the last 12 months;
- was not convicted of a level 1 drug felony, or a class 1, 2, or 3 felony and is not serving an indeterminate sentence; and
- has not been regressed from community corrections or revoked from parole in the last 180 days.

The Parole Board cannot deny parole solely because the inmate does not have a recommended parole plan but may deny a hearing or order a conditional release if the offender has a detainer or warrant. The DOC must ensure that every inmate has been assessed on the validated risk assessment scale and that Parole Board members have the results. The Parole Board must also report monthly on the number of hearings conducted of individuals that meet the above criteria, the number of decisions, and the general reason for any deferral or delay of parole. Finally, within 60 days of the effective date of the bill, the DOC must identify offenders who would be eligible for parole, and the Parole Board must schedule a hearing with them within 90 days.

Participation in Drug Programs

The bill allows a parole officer or board to make a referral or placement in certified recovery residence. The bill also removes the requirement that a parolee pay for an appropriate drug or alcohol program when a chemical test reflects the presence of drugs or alcohol.

Background

The DOC currently considers placement in certified recovery residences for parolees and does not charge parolees for drug and alcohol programs.

Assumptions

Court Determinations for Class 5 and 6 Felonies

In 2013, the General Assembly passed Senate Bill 13-250 which required a similar exhaustion of remedies for DOC sentences of level 4 drug felonies. As required by that bill, the Division of Criminal Justice released an [Analysis of SB 13-250](#) on sentencing changes resulting from the bill. According to the report, DOC sentences for level 4 drug felonies fell by 4 percent three years after the passage of the bill compared with the three years before the bill passed. In addition, DOC sentences for probation revocations fell by 5 percent during the same period.

The fiscal note assumes a similar trend will occur with class 5 and 6 felonies under the bill. It assumes that there will be 5,090 new court commitments per year to the DOC in future years. Based on the DOC's annual report, 29 percent of those will be for a class 5 felony, and 13 percent will be for a class 6 felony. This results in 1,456 new court commitments for class 5 felonies and 677 new court commitments for class 6 felonies. The fiscal note assumes that up to 4 percent of these individuals will be sentenced to probation instead of the DOC. Specifically, 1.3 percent in FY 2025-26, 2.7 percent in FY 2026-27, and 4 percent in FY 2027-28 will not be sentenced to the DOC. This results in:

- 17 fewer class 5 felonies and 8 fewer class 6 felonies in FY 2025-26;
- 35 fewer class 5 felonies and 16 fewer class 6 felonies in FY 2026-27; and
- 52 fewer class 5 felonies and 24 fewer class 6 felonies in FY 2027-28 and ongoing.

In addition to new sentences, the bill is also expected to decrease the number of probation revocations to the DOC. The fiscal notes assumes 7 percent of the 9,300 revocation cases per year result in a DOC sentence (per the [2023 Probation Recidivism Study](#)). As a result, it is assumed there will be:

- 3 fewer class 5 felonies and 1 fewer class 6 felonies sentenced in FY 2025-26;
- 6 fewer class 5 felonies and 3 fewer class 6 felonies sentenced in FY 2026-27; and
- 9 fewer class 5 felonies and 4 fewer class 6 felonies sentenced in FY 2027-28 and ongoing.

The average length of stay for class 5 and 6 felonies is 16 months and 8.5 months, respectively. The average parole length of stay for class 5 and 6 felonies is 18 months and 9.8 months, respectively.

Resentencing Hearings

The fiscal note assumes that there are about 449 individuals who are sentenced to the DOC within their parole eligibility date and would then have their case reheard. Assuming a 4 percent decrease, this results in:

- 2 fewer class 5 felonies and 1 fewer class 6 felonies sentenced in FY 2025-26;
- 3 fewer class 5 felonies and 2 fewer class 6 felonies sentenced in FY 2026-27; and
- 5 fewer class 5 felonies and 2 fewer class 6 felonies sentenced in FY 2027-28 and ongoing.

Overall Bed Decrease

Based on the above assumption, the fiscal note assumes that there will be:

- 18 fewer class 5 felonies and 8 fewer class 6 felonies in FY 2025-26 after prorating for the September 1 start date;
- 44 fewer class 5 felonies and 21 fewer class 6 felonies in FY 2026-27; and
- 66 fewer class 5 felonies and 30 fewer class 6 felonies in FY 2027-28 and ongoing.

Decision of Parole

The bill may also decrease the amount of time in the DOC from creating a presumption that a parolee be approved for parole if they meet certain conditions. This impact depends on future Parole Board decisions and has not been estimated.

State Revenue

By sentencing additional individuals to probation, the bill increases Offender Services Cash Fund revenue by an estimated \$6,678 in FY 2025-26, \$19,242 in FY 2026-27, \$39,276 in FY 2027-28, and \$46,080 in FY 2028-29. This is based on the assumed number of individuals sentenced to probation, and on current indigence and collection rates of the Judicial Department.

State Expenditures

The bill increase state expenditures by \$793,809 in FY 2025-26, and decreases state expenditures by \$204,916 in FY 2026-27, \$1.4 million in FY 2027-28, and \$1.9 million in FY 2028-29. These changes in costs will occur in the Judicial Department and the Department of Corrections as shown in Table 2 and described in the sections below. Costs are paid from the General Fund.

Table 2
State Expenditures
All Departments

Department	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
Judicial Department	\$1,234,406	\$1,652,542	\$1,712,970	\$1,649,170
Department of Corrections	-\$440,597	-\$1,854,506	-\$3,088,356	-\$3,589,372
Total Costs	\$793,809	(\$201,964)	(\$1,375,386)	(\$1,940,202)

Judicial Department

The bill increases state expenditures in the Judicial Department due to additional sentences to the Division of Probation and for the courts to conduct additional hearings and make additional findings. Staff are prorated for an assumed October 1, 2025, hire date in FY 2025-26.

Division of Probation

Based on the assumptions outlined above, the Division of Probation requires 12.9 FTE in FY 2025-26, 13.5 in FY 2026-27, and 14.2 FTE in FY 2027-28 and ongoing to manage increased presentencing report workload and the increase in the number of individuals sentenced to probation in place of the DOC.

Presentencing Reports

The Division of Probation already provides presentencing reports, but will need to update the report for any revocation hearings and include additional information. According to the Judicial Department, there are about 9,300 revocation cases in a year. It is estimated this additional information will take 2 hours per report, requiring 8.9 FTE.

Probation Sentences

The division will supervise additional persons sentenced to probation instead of the DOC. Based on the fiscal note assumptions, the division requires 0.5 FTE in FY 2025-26, 1.0 FTE in FY 2026-27, and 1.4 FTE in FY 2027-28 and ongoing to supervise the assumed number of new probation sentences.

Support Staff

Each probation officer requires a probation supervisor, at a 1:6 ratio, and a staff assistant at a 1:5 ratio.

Trial Courts

The trial courts require 1.2 FTE to conduct additional resentencing hearings and to make findings for DOC sentences. This assumes there will be 449 resentencing hearings due to a DOC sentence within 90 days of the individual's parole eligibility date and each hearing will take one hour. In addition, it is assumed there will be 5,610 DOC sentence cases that will require findings that will take two minutes each. This results in the need for 0.3 FTE magistrate. Per Judicial Department common policies, each magistrate requires additional support staff at a 3:1 ratio.

**Table 2A
 State Expenditures
 Judicial Department**

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2026-27	Out Year FY 2026-27
Personal Services	\$886,254	\$1,239,823	\$1,289,442	\$1,289,442
Operating Expenses	\$36,050	\$42,408	\$48,501	\$48,501
Capital Outlay Costs	\$98,000	\$71,152	\$63,800	\$0
Centrally Appropriated Costs	\$214,102	\$299,159	\$311,227	\$311,227
Total Costs	\$1,234,406	\$1,652,542	\$1,712,970	\$1,649,170
Total FTE	10.6 FTE	14.8 FTE	15.4 FTE	15.4 FTE

Department of Corrections

The bill decreases expenditures in the DOC due to the assumption of fewer sentences; however, the department requires additional staff resources in FY 2025-26 only, as described below.

Bed Decrease

Based on the assumptions above, this bill decreases prison operating costs for the DOC by a total of \$12.9 million over the five-year period beginning in FY 2025-26, with prison and parole impacts occurring in FY 2025-26. Table 2B shows the estimated cost savings of the bill over the next five fiscal years. Savings in the first year are prorated for the bill’s September 1, 2025, effective date.

**Table 2B
 State Expenditures
 Prison and Parole Operating Costs**

Fiscal Year	Prison ADP Impact¹	Prison Cost	Parole ADP Impact¹	Parole Cost	Total Cost
FY 2025-26	-24.03	-\$595,226	-2.47	-\$20,678	-\$615,904
FY 2026-27	-66.11	-\$1,637,198	-25.91	-\$217,309	-\$1,854,506
FY 2027-28	-101.90	-\$2,523,620	-67.33	-\$564,735	-\$3,088,356
FY 2028-29	-109.29	-\$2,706,594	-105.25	-\$882,777	-\$3,589,372
FY 2029-30	-109.29	-\$2,706,594	-123.69	-\$1,037,475	-\$3,744,069
Total Five-Year Cost		-\$10,169,232		-\$2,722,974	-\$12,892,206

¹ ADP impact signifies the bill’s effect on average daily populations in DOC.

Time and Release Staff

In FY 2025-26, expenditures in the DOC will increase to review and audit files to send the required report to the Parole Board. It is estimated this will take 7,315 overtime hours to produce the report.

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

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2026-27	Out Year FY 2026-27
Bed Decrease	-\$615,904	-\$1,854,506	-\$3,088,356	-\$3,589,372
Overtime	\$175,307	\$0	\$0	\$0
Total Costs	-\$440,597	-\$1,854,506	-\$3,088,356	-\$3,589,372
Total FTE	0.0 FTE	0.0 FTE	0.0 FTE	0.0 FTE

Parole Board

Parole Board workload will increase to hear additional parole applications and to provide the reporting required by the bill. In addition, if more individuals are granted parole, workload in the Division of Adult Parole will increase. Because it is unknown how Parole Board decisions will change, the fiscal note assumes any adjustments in appropriations will be handled through the annual budget process.

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 include employee insurance and supplemental employee retirement payments, are shown in the expenditure tables above.

TABOR Refunds

The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the State Revenue section above. This estimate assumes the December 2024 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2026-27. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Local Government

Workload in district attorney offices will increase to attend more hearings. District attorney offices are funded at the county level.

Effective Date

The bill takes effect September 1, 2025, assuming no referendum petition is filed, and applies to sentences entered and parole board hearings held on or after this date.

State Appropriations

For FY 2025-26, the bill requires the following changes in General Fund appropriations:

- an increase of \$1,020,304 to the Judicial Department, and 10.6 FTE; and
- a decrease of \$440,597 to the Department of Corrections.

State and Local Government Contacts

Corrections

Judicial