



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1227: ASSAULT IN SECOND DEGREE

Prime Sponsors:

Rep. Hartsook
Sen. Frizell

Fiscal Analyst:

Clayton Mayfield, 303-866-5851
clayton.mayfield@coleg.gov

Published for: House Judiciary**Drafting number:** LLS 25-0776**Version:** Initial Fiscal Note**Date:** February 28, 2025**Fiscal note status:** The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill modifies the offense of second degree assault.**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- Minimal State Revenue
- State Expenditures
- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures (General Fund)	\$0	\$8,593,542
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill makes several changes to the offense of second degree assault.

For the purposes of second degree assault, the bill changes the definition of “emergency medical care provider” to include health care facility staff that provide any function related to medical care instead of emergency medical care. When second degree assault is charged based on an assault against a peace officer, firefighter, or emergency medical service provider, the bill removes the requirement that the assailant must intentionally cause bodily injury and instead assailants must only knowingly cause bodily injury. Additionally, if a person is sentenced to the Department of Corrections (DOC), the bill requires an enhanced sentence for at least the midpoint of the presumptive range.

Finally, when second degree assault is charged based on strangulation and a deadly weapon is used, the bill requires an enhanced sentence for at least the midpoint of the presumptive range to the DOC. Deadly weapons may include body parts, and any item used must be specifically alleged to be a deadly weapon beyond a reasonable doubt.

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 offenses in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior Conviction Data

Second Degree Assault—Peace Officer, Firefighter, or Emergency Medical Provider

This bill enhances sentences and creates a new factual basis for the existing offense of second degree assault on a peace officer, firefighter, or emergency medical care or service provider, a class 4 felony, by only requiring knowledge of probable harm instead of intent. From FY 2021-22 to FY 2023-24, 1,452 persons have been convicted and sentenced for this offense, an average of 484 per year. Of the persons convicted, 1,046 were male, 398 were female, and 8 did not have a gender identified. Demographically, 1046 were White, 278 were Black/African American, 52 were Hispanic, 10 were Asian, 30 were American Indian, 28 were classified as "Other," and 8 did not have a race identified.

Second Degree Assault—Strangulation

This bill enhances sentences for the existing offense of second degree assault by strangulation, a class 4 felony, by requiring an enhanced sentence if a deadly weapon was used. From FY 2021-22 to FY 2023-24, 2,838 persons have been convicted and sentenced for this offense, an average of 946 per year. Of the persons convicted, 2,694 were male, 133 were female, and 11 did not have a gender identified. Demographically, 1,969 were White, 634 were Black/African American, 138 were Hispanic, 12 were Asian, 29 were American Indian, 39 were classified as "Other," and 17 did not have a race identified.

Assumptions

Second Degree Assault—Peace Officer, Firefighter, or Emergency Medical Provider

The fiscal note makes the following assumptions regarding this offense:

- there were about 464 unique offenders sentenced to the DOC from FY 2021-22 to FY 2023-24, or about 155 per year;
- the total time imposed for all sentences to the DOC from FY 2021-22 to FY 2023-24 was 27,239 months, meaning the average sentence imposed per unique offender is about 58.7 months;
- according to the DOC's [FY 2021-22 Statistical Report](#), offenders with a class 4 felony serve about 45 percent of their sentence, which equates to an average length of stay (ALOS) of about 26.4 months;
- under the bill, courts must impose a sentence to the DOC for at least the midpoint of the presumptive range for a class 4 felony crime of violence, which is 5 to 16 years with a midpoint of 10.5 years, or 126 months;
- courts will impose sentences to the DOC at the midpoint, increasing the ALOS for new commitments to the DOC to 56.7 months assuming offenders continue to serve 45 percent of their sentence; and, therefore
- starting in FY 2026-27, there will be about 155 new commitments to the DOC with an ALOS of 56.7 months.

Second Degree Assault—Strangulation

The fiscal note makes the following assumptions regarding this offense:

- since strangulation with a deadly weapon may include body parts or other items, and since strangulation is unlikely to occur absent the use of a body part or item, most second degree assaults by strangulation will be charged under the provisions of the bill;
- there were about 1,041 unique offenders sentenced to probation for strangulation from FY 2021-22 to FY 2023-24, or about 347 per year;
- in the same period, there were about 794 unique offenders sentenced to the DOC for strangulation, or about 265 per year;

- the total time imposed for all sentences to the DOC in this period was 51,175 months, meaning the average sentence imposed per unique offender is about 64.5 months;
- using the class 4 felony sentence served percentage above, second degree assault by strangulation offenders have an ALOS of 29.0 months; and, therefore
- under the bill, courts will impose an enhanced sentence at the midpoint for a crime of violence for second degree assault by strangulation, resulting in about 612 new commitments to the DOC with an ALOS of 56.7 months starting in FY 2026-27.

Probation Impacts

Although the fiscal note estimates that the bill will move about 347 offenders per year from probation to the DOC, it is assumed that this probation impact will be offset by new sentences to probation from other sentencing changes made by the bill.

State Revenue

Based on the assumptions above, this analysis assumes that there will be a minimal impact on state revenue. Under the bill, criminal fines and court fees, which are subject to TABOR, may increase by a minimal amount.

State Expenditures

The bill increases state expenditures in the DOC by about \$8.6 million in FY 2026-27 and increases steadily in future years. These costs, paid from the General Fund, are summarized in Table 2 and discussed below. The bill also minimally affects workload in the Judicial Department.

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 Department of Corrections. These impacts are described below.

DOC Prison and Parole Costs (Five-year Fiscal Impact)

Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of about \$43.1 million over the five-year period beginning in FY 2025-26. 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. Once an offender is released from prison, they are assigned to parole. The parole impact is assumed to first occur in FY 2028-29. Table 2 shows the estimated cost of the bill over the next five fiscal years.

Table 2
State Expenditures
Prison and Parole Operating Costs

Fiscal Year	Prison ADP Impact¹	Prison Cost	Parole ADP Impact¹	Parole Cost	Total Cost
FY 2025-26	0.00	\$0	0.00	\$0	\$0
FY 2026-27	347.00	\$8,593,542	0.00	\$0	\$8,593,542
FY 2027-28	274.00	\$6,785,679	0.00	\$0	\$6,785,679
FY 2028-29	479.58	\$11,877,001	-278.58	-\$2,336,673	\$9,540,328
FY 2029-30	826.58	\$20,470,543	-278.58	-\$2,336,673	\$18,133,869
Total Five-Year Cost		\$47,726,765		-\$4,673,346	\$43,053,418

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

DOC 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 \$147.5 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, 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.

DOC Workload Impacts

The Victim Services Unit will have an increase in workload to perform victim notifications and critical stage hearings under the Victim Rights Act, which apply to second degree assault crimes.

Judicial Department

This analysis assumes that there will be a minimal impact on state expenditures in the Judicial Department. Any increase in workload and costs for the Judicial Department, including the trial courts, Division of Probation, and agencies that provide representation to indigent persons are assumed to be minimal and no change in appropriations is required.

Local Government

By enhancing sentencing for certain second degree assault cases, 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 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to offenses committed on or after September 1, 2025.

State and Local Government Contacts

Corrections

Judicial

District Attorneys

Public Defender

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](#).