



**Colorado
Legislative
Council
Staff**

Bill 16

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 18-0312
Prime Sponsor(s):

Date: October 31, 2017
Bill Status: Sentencing in the Criminal Justice System Interim Study Committee Bill Request

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BILL TOPIC: EARLY TERMINATION OF PROBATION

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue	(\$259,661)	(\$392,088)
Cash Funds	(259,661)	(392,088)
State Expenditures	(\$986,986)	(\$986,986)
General Fund	(820,181)	(820,181)
Centrally Appropriated Costs	(166,805)	(166,805)
FTE Position Change	(11.5 FTE)	(11.5 FTE)
Appropriation Required: (\$820,181) - Judicial Department (FY 2018-19)		
Future Year Impacts: Ongoing state revenue and expenditure reduction.		

Summary of Legislation

This bill, ***requested by the Sentencing in the Criminal Justice System Interim Study Committee***, requires the court to favorably consider any successful completion of a milestone, or educational or therapeutic program by a probationer when making a determination on whether to reduce the term or alter the conditions of probation. Additionally, a judge must grant a probationer's request for the early termination of probation if the probationer:

- was sentenced to more than one year of probation;
- has been rated as low-risk for the last two risk assessments;
- has complied with all probation conditions; and
- has served at least 50 percent of his or her probation sentence.

Requests for early termination cannot be granted if the probationer is in an intensive supervision program.

This bill also requires each court to report to the State Court Administrator in the Judicial Department the number of early termination of probation motions, the outcome of the motions, and the reason if a motion is denied. The State Court Administrator must summarize this information and prepare an annual report to be included in the department's SMART ACT hearing.

Background

Under current law, the court is authorized to reduce the term of probation for good cause. An early termination of probation request can be initiated by a probation officer, probationer, or the probationer's attorney. Under current practice, in almost all judicial districts, it is recommended that the probationer successfully complete one-half of his or her sentence before petitioning the court for early termination. The probationer, probationer's attorney, or the District Attorney (DA) may request a hearing at which early termination is considered. If a hearing is not requested, the request is reviewed by the applicable court and a ruling is made without a hearing.

Data and assumptions. The impacts identified in this analysis are based on the following data and assumptions:

- the reduced probation length of stay resulting from this bill will begin July 1, 2018;
- there are 7,642 probationers that meet the bill's early probation release criteria of having a sentence of at least one year and being assessed as low-risk on the last two assessments;
- of this number, 59 percent (4,508) are under state supervision and 41 percent (3,134) are under private supervision;
- based on FY 2016-17 data, the average length of probation stay is 1.4 years; and
- the average length of stay will be reduced by an average of 4.8 months for all 7,642 eligible probationers.

State Revenue

Beginning in FY 2018-19, this bill reduces state cash fund revenue from probation supervision fees credited to the Offenders Services Cash Fund in the Judicial Department. Probationers are charged a supervision fee of \$50 per month for state supervision (private supervision fees are retained by the private provider). By reducing the length of stay for 4,508 probationers under state supervision that meet the bill's criteria for early termination by an estimated 4.8 months, this bill decreases probation supervision fee revenue by \$259,661 in FY 2018-19 and \$392,088 in FY 2019-20. This estimate accounts for historical collection and indigence rates, and FY 2019-20 fee revenue includes prior year supervision fees due to payment delays.

State Expenditures

This bill decreases General Fund expenditures in the Judicial Department by \$986,986 and 11.5 FTE per year beginning in FY 2018-19. These cost reductions are shown in Table 1 and are discussed below.

Table 1. Expenditures Under Bill 16		
Cost Components	FY 2018-19	FY 2019-20
Personal Services	(\$786,256)	(\$786,256)
FTE	(11.5 FTE)	(11.5 FTE)
Operating Expenses	(33,925)	(33,925)
Centrally Appropriated Costs*	(166,805)	(166,805)
TOTAL	(\$986,986)	(\$986,986)

* Centrally appropriated costs are not included in the bill's appropriation.

Probation. By requiring early probation termination requests to be granted for probationers meeting the criteria identified in the bill, probation supervision workload and costs are reduced. Specifically, by reducing the probation length of stay by an average of 4.8 months for all 7,642 eligible probationers, probation supervision costs are reduced by \$986,986 and 11.5 FTE per year beginning in FY 2018-19. State supervision of 4,508 probationers is expected to decrease by approximately 16,000 hours per year and the supervision of 3,134 probationers on private supervision will reduce by approximately 1,700 per year for a the total reduction of 11.5 FTE when supervisory and clerical staff time are factored in. This assumes reduced supervision workload and costs will begin July 1, 2018, and includes standard operating expenditures. This reduction is offset slightly by an increase in probation workload to contact victims that have requested notification.

Trial courts. By establishing criteria in which a probationer must be granted release from probation, this bill may increase the number of requests for early termination of probation which will increase trial court workload beginning in FY 2018-19. A hearing may be requested, but is not required, therefore any increase in workload is expected to be minimal and will not require an increase in appropriations.

Reporting. This bill also increases Judicial Department workload, beginning FY 2018-19 by the requiring collection and reporting of early termination motions. This workload is expected to be minimal and will not require an increase in appropriations.

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes. Beginning in FY 2018-19, central appropriated costs are reduced by \$166,805 per year. This includes a reduction of \$96,352 for employee insurance, and \$70,453 for supplemental retirement payments.

Local Government Impact

Similar to the state, this bill may increase Denver County Court workload for early termination of probation. However there is no requirement to hold a hearing for such requests, therefore this impact is expected to be minimal. The bill is also expected to decrease the length of stay on probation in Denver and supervision revenue and expenses will also decrease. The exact impact to the City and County of Denver was not available at the time of this writing.

Effective Date

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

State Appropriations

For FY 2018-19, this bill requires a reduction in General Fund appropriations of \$820,181 and a reduction in FTE allocation of 11.5 FTE to the Judicial Department.

State and Local Government Contacts

Judicial Counties