



**Colorado  
Legislative  
Council  
Staff**

**Bill 19**

**FISCAL NOTE**

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

**Drafting Number:** LLS 18-0315  
**Prime Sponsor(s):**

**Date:** October 26, 2017  
**Bill Status:** Sentencing in the Criminal Justice System Interim Study Committee Bill Request

**Fiscal Analyst:** Marc Carey (303-866-4102)

**BILL TOPIC:** LIMIT NUMBER OF BEDS IN DOC

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
<b>State Revenue</b>		
General Fund		Potential increase.
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing state expenditure increase.		

**Summary of Legislation**

*Requested by the Sentencing in the Criminal Justice System Interim Study Committee*, this bill limits the total number of beds available for inmates sentenced to a term of imprisonment in the Department of Corrections (DOC). Specifically, beginning in FY 2019-20, the bill limits both the number of new admissions beds to 17,000 and the number of technical parole violation return beds to 1,100. The bill establishes a state prison bed allocation working group within the Judicial Department to:

- allocate the number of new admission beds to each county on or before June 15, 2019, and annually thereafter;
- establish a process for counties to loan allocated beds to one another;
- develop a process for assigning inmates to a county;
- create a process for counties to pay the state for incarceration costs when a county's allocated number of prison beds is exceeded; and
- establish a process for the DOC to inform chief judges and district attorneys of each judicial district of the number of beds charged to counties within that district.

The bill charges the State Parole Board with establishing a working group to develop a prison bed usage plan for technical parole violation returns. The bill also specifies that if the number of inmates housed in the DOC for a county exceeds the number of beds allocated and loaned to that county, the county must reimburse the state for the cost of the excess inmates based on the private prison per diem rate.

## **Background**

Under current law, district court judges make offender placement decisions, and inmate releases are determined by the State Parole Board.

## **State Revenue**

Beginning in FY 2019-20, the bill may increase state General Fund revenue from county reimbursements. The bill establishes a working group to, among other things, develop a process for allocating the number of new admissions to each county. If the number of inmates housed in a DOC facility for a given county exceeds the number of inmates allocated and loaned to that county, the county is then required to reimburse the DOC for the costs of housing the inmates using the private prison per diem rate, which is currently \$60.47 per day. Because it is not currently possible to know which counties will have inmates exceeding the number of allocated and traded beds, county-level reimbursements have not been estimated. Based on the current Legislative Council Staff prison population forecast, however, reimbursement revenue could total up to \$74.0 million annually. Please see the Local Government Impact section for more information.

## **State Expenditures**

The bill will increase workload increase for representatives of the Department of Corrections, the Department of Public Safety, the Governor's Office and the Judicial Branch for participating in the state prison bed allocation working group. It is anticipated that this workload can be accomplished within existing appropriations.

## **Local Government Impact**

This bill shifts incarceration costs from the state to counties for some inmates. Any county for which the number of inmates exceeds the county allocation and loaned beds will need to reimburse the state at the per diem rate for private prisons. According to latest Legislative Council Staff forecast, an average daily population of 20,354 inmates is projected to be housed in state facilities or private prisons in FY 2018-19, the latest forecast year available. This total is 3,354 higher than the cap contemplated in the bill. While it is not currently possible to know the number of allocated beds that would be exceeded, and for which counties, this implies a potential maximum county reimbursement of \$74.0 million annually, across all counties.

The bill also establishes a limit of 1,100 beds for technical parole violators. According to the DOC, the current number of technical parole violators is 1,090. Over the course of the past two years, the number of new technical returns per month has varied between about 200 and 300 offenders.

The bill will increase workload for local government representatives participating in the state prison bed allocation working group.

**Technical Note**

This bill establishes a prison bed cap well below the currently projected number of inmates in FY 2019-20. This fiscal note assumes that this cap is not literal, but instead will be used to determine who covers the costs of incarceration of inmates above the cap. If instead, the intent of the bill is for DOC to manage bed capacity using this cap, the bill will significantly reduce the average daily inmate population in the DOC system, and result in an associated cost savings and FTE reduction for the DOC, and corresponding cost and FTE increases for the parole division. These amounts have not been estimated, but are, on balance, assumed to result in significant General Fund savings.

**Effective Date**

The bill takes effect August 8, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed.

**State and Local Government Contacts**

Corrections

Judicial

Counties

District Attorneys

