



**Colorado
Legislative
Council
Staff**

Bill 5

FISCAL NOTE

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

Drafting Number: LLS 18-0301
Prime Sponsor(s):

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

Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: RANGE FOR EXTRAORDINARY AGGRAVATING CIRCUMSTANCES

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue		
State Expenditures General Fund	Workload impact and potential expenditure decrease - see State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Potential ongoing expenditure decrease and workload impact.		

Summary of Legislation

Requested by the Sentencing in the Criminal Justice System Interim Study Committee, this bill adjusts sentencing for crimes with extraordinary aggravating circumstances. Under current law, the presence of one or more extraordinary aggravating circumstances requires the court, if it sentences an offender to a term of incarceration, to sentence him or her to a term of at least the midpoint and up to twice the maximum of the presumptive range for that felony offense level. This bill lowers the sentencing range to the minimum of and up to twice the maximum of the presumptive range for that felony offense level.

Background

Extraordinary aggravating circumstances include when an offender:

- is convicted of a statutorily-defined crime of violence;
- was on parole for another felony at the time he or she committed the new offense;
- was on probation or bond while awaiting sentencing following revocation of probation for another felony at the time he or she committed the new offense;
- was under confinement, in prison, or in any correctional institution as a convicted felon, or an escapee from any correctional institution for another felony at the time he or she committed the new offense;
- was on appeal bond following his or her conviction for a previous felony at the time he or she committed the new offense; or

- was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult at the time he or she committed the new offense.

State Expenditures

By lowering the range of sentences provided to offenders subject to enhanced sentencing as a result of extraordinary aggravating circumstances, the bill has the potential to impact workload within the trial courts of the Judicial Department and reduce terms of incarceration.

Assumptions. The Judicial Department does not have the capability to provide data on the exact number of cases that this bill could apply to each year. Anecdotally, the department estimates that about 10 percent of felony cases involve extraordinary aggravating circumstances and sentences to the current minimum, which is the midpoint of the presumptive range. For example, for a class 3 felony with extraordinary aggravating circumstances, the sentence range is 8 to 24 years. Under this bill, the sentence range would become 4 to 24 years. Because sentencing is based on a variety of factors that are individual to each case, it is not possible to predict how many offenders would receive a shorter prison sentence or of which felony classes these offenders will be convicted. This analysis assumes that some shorter sentences will result from the bill, but it is not possible to identify when the fiscal impact would occur and how much savings could result.

Judicial Department. Beginning in FY 2018-19, the bill may impact trial court workload. To the extent that the option of reduced prison sentences results in more hearings, workload will increase. Conversely, if more plea agreements are reached, workload will decrease for the trial courts and offices that provide representation to indigent offenders. This analysis assumes that workload changes will be minimal and that no changes in appropriations for the department or any of its offices are required.

Department of Corrections. To the extent that offenders are sentenced to shorter terms of incarceration, costs for the department will decrease. As of this writing it costs about \$22,000 per offender, per year for a private prison bed. This analysis assumes that any adjustments to appropriations for the department will be addressed through the annual budget process.

Local Government Impact

Similar to the state, workload for district attorneys may be increased by the bill if more court hearings are required or reduced if cases are concluded earlier through plea agreements. This analysis assumes that any workload changes are minimal.

Effective Date

The bill takes effect July 1, 2018, and applies to offenses committed on or after this date.

State and Local Government Contacts

Corrections
Judicial

District Attorneys
Information Technology

