



Legislative
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FISCAL NOTE

Drafting Number: LLS 20-0724
Prime Sponsors: Rep. Soper

Date: February 18, 2020
Bill Status: House Judiciary
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Bill Topic: INCREASE SENTENCE SERVED BEFORE PAROLE ELIGIBILITY

**Summary of
Fiscal Impact:**

- | | |
|---|--|
| <input type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| <input checked="" type="checkbox"/> State Expenditure | <input type="checkbox"/> Local Government |
| <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

This bill increases the standard for parole eligibility for felony offenses from 50 percent of the person's sentence to 75, 80, or 85 percent, depending on the offense. It will increase state expenditures on an ongoing basis beginning in FY 2021-22.

**Appropriation
Summary:**

This bill requires a total five-year appropriation of \$173.8 million to the Department of Corrections. In addition, capital construction funding of \$457.9 million may be appropriated. See State Appropriations section.

**Fiscal Note
Status:**

The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts Under HB 20-1274**

| | | FY 2020-21 | FY 2021-22 | FY 2024-25 |
|---------------------|------------------|------------|------------------|---------------------|
| Revenue | | - | - | - |
| Expenditures | General Fund | - | \$102,336 | \$98,785,170 |
| | Total | - | \$102,336 | \$98,785,170 |
| | Total FTE | - | 0.9 FTE | 0.9 FTE |
| Transfers | | - | - | - |
| TABOR Refund | | - | - | - |

Summary of Legislation

For persons convicted on or after July 1, 2021, this bill increases the general standard for parole eligibility from 50 percent to 75 percent of the person's sentence served for a class 2, class 3, class 4, class 5, or class 6 felony, or a level 1, level 2, level 3, or level 4 drug felony, or any unclassified felony, less any earned time and plus any parole eligibility extension resulting from misconduct. The executive director of the Department of Corrections (DOC) must promulgate rules concerning when and under what conditions any inmate's parole eligibility date may be extended. In addition, the standard for parole eligibility is higher, either 80 percent or 85 percent, for certain offenses outlined in the bill. Finally, the bill amends the Victims Rights Act to require notifications about parole eligibility.

Data and Assumptions

The data and assumptions used for this fiscal note are shown in Table 2. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

Table 2
Impact on Average Length of Stay (ALOS) Under HB 20-1274

| Felony Class* | Average Annual Commitments** | ALOS Current Law | ALOS HB 20-1274*** | Additional Months Served Under Bill |
|----------------------|-------------------------------------|-------------------------|---------------------------|--|
| F4 | 1,758 | 30.5 | 45.8 | 15.3 |
| F5 | 1,812 | 15.6 | 23.3 | 7.7 |
| F6 | 814 | 7.8 | 11.7 | 3.9 |
| DF2 | 189 | 20.7 | 31.1 | 10.4 |
| DF3 | 175 | 13.0 | 19.5 | 6.5 |
| DF4 | 398 | 4.1 | 6.1 | 2.0 |

* Class 1, 2, 3 felonies and drug level 1 felonies are not included in the analysis because the ALOS for these sentences under current law is outside the fiscal note's 5-year projection.

** Average annual commitments represents an average number of felony sentences to DOC by classification from FY 2016-17 to FY 2018-19.

*** ALOS under bill assumes that offenders will remain incarcerated for 50 percent longer than their ALOS under current law, proportional to the bill's delay in most offenders' parole eligibility date from 50 percent to 75 percent of their prison sentences.

State Expenditures

On net, the bill increases General Fund expenditures in the DOC by \$173.8 million over a five-year period, and may increase capital construction costs in the DOC by up to \$457.9 million. It will also increase legal services expenditures, provided by the Department of Law, by \$102,336 and 0.9 FTE per year beginning in FY 2021-22. These impacts are shown in Tables 2 and 3 described below.

**Table 2
Expenditures Under HB 20-1274**

| Cost Components | FY 2020-21 | FY 2021-22 | FY 2024-25 |
|----------------------------------|-------------------|-------------------|---------------------|
| Department of Corrections | | | |
| Prison Impact (see Table 3) | - | - | \$109,474,592 |
| Parole Impact (see Table 3) | - | - | (\$10,791,758) |
| Legal Services | - | \$102,336 | \$102,336 |
| FTE – Legal Services | - | 0.9 FTE | 0.9 FTE |
| DOC (Subtotal) | \$0 | \$102,336 | \$98,785,170 |

Department of Corrections prison and parole operating costs (five-year fiscal impact). Because the bill increases the time served before an inmate is eligible for parole, the bill increases prison operating costs for the DOC by net total of \$173.8 million over the five-year period beginning in FY 2020-21. Because the bill is not effective until July 1, 2021, the impact of the later parole eligibility for felony offenders will first occur in FY 2022-23. Table 3 shows the estimated prison costs and parole savings of the bill over the next five fiscal years.

**Table 3
Prison and Parole Costs Under HB 20-1274**

| Prison Costs | Avg. Daily Pop. | Annual Cost* | Operating Cost |
|--------------------------|------------------------|---------------------|-----------------------|
| FY 2020-21 | - | | \$0 |
| FY 2021-22 | - | | \$0 |
| FY 2022-23 | 333.23 | \$42,664.85 | \$14,217,208 |
| FY 2023-24 | 1,654.99 | | \$70,609,900 |
| FY 2024-25 | 2,565.92 | | \$109,474,592 |
| Prison (Subtotal) | | | \$194,301,700 |
| Parole Costs | Avg. Daily Pop. | Annual Cost* | Operating Cost |
| FY 2020-21 | - | | \$0 |
| FY 2021-22 | - | | \$0 |
| FY 2022-23 | (333.23) | \$5,861.90 | (\$1,953,360) |
| FY 2023-24 | (1,321.77) | | (\$7,748,084) |
| FY 2024-25 | (1,841.00) | | (\$10,791,758) |
| Parole (Subtotal) | | | (\$20,493,202) |
| FIVE-YEAR TOTAL | | | \$173,808,498 |

* Per offender, state-run prisons cost an average of \$116.89 per day or \$42,664.85 per year, and parole costs an average of \$16.06 per day or \$5861.90 per year.

Department of Corrections 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 (\$178,471 per bed), capital construction costs of \$457.9 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 and a reappropriation of this funding 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.

Department of Law. The fiscal note assumes that 20 inmates per year will file habeas or mandamus petitions related to sentence calculation as a result of the changes under the bill, resulting in an increase in time computation litigation filings for the Department of Law. Costs shown in Table 2 are calculated using the hourly rate of \$106.60 and assume 48 hours per case.

Effective Date

If the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed, the bill takes effect August 5, 2020, except that Sections 2 and 3 take effect July 1, 2021.

State Appropriations

Starting in FY 2020-21, this bill requires a General Fund appropriation of \$173.8 million for the five-year DOC operating impacts identified in Table 3. As discussed in the DOC capital construction costs section, the General Assembly may appropriate \$457.9 million for prison bed construction.

State and Local Government Contacts

Corrections
Human Services
Law

Counties
Information Technology
Public Safety

District Attorneys
Judicial
Sheriffs