



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 26-036: PRISON POPULATION MANAGEMENT MEASURES

**Prime Sponsors:**

Sen. Gonzales J.; Weissman  
Rep. Bacon; Zokaie

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### Summary Information

**Overview.** The bill increases the vacancy rate used to determine when prison population management measures (PPMM) take effect from 3 percent to 4 percent, and makes other changes to PPMM.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

**Appropriations.** For FY 2026-27, the bill requires a net reduction in appropriations of \$420,804 from the Department of Corrections and the Department of Public Safety.

**Table 1  
State Fiscal Impacts**

Type of Impact	Budget Year FY 2026-27	Out Year FY 2027-28	Out Year FY 2028-29
State Revenue	\$0	\$0	\$0
State Expenditures	-\$315,189	-\$837,389	Not estimated
Transferred Funds	\$0	\$0	\$0
Change in TABOR Refunds	\$0	\$0	\$0
Change in State FTE	5.0 FTE	5.0 FTE	Not estimated

Ongoing impacts in FY 2028-29 and beyond, including required FTE, will depend on the prison vacancy rate and whether PPMM are in effect, and have not been estimated. It is assumed ongoing costs and savings related to the prison population will be addressed through the annual budget process based on the actual and forecast prison population.

**Table 1A  
 State Expenditures**

<b>Fund Source</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
General Fund	-\$420,804	-\$943,004	Not estimated
Cash Funds	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0
Centrally Appropriated	\$105,615	\$105,615	Not estimated
<b>Total Expenditures</b>	<b>-\$315,189</b>	<b>-\$837,389</b>	<b>Not estimated</b>
<b>Total FTE</b>	<b>5.0 FTE</b>	<b>5.0 FTE</b>	<b>Not estimated</b>

## Summary of Legislation

Under current law, when the vacancy rate in the Colorado Department of Corrections (CDOC) falls below 3 percent for 30 consecutive days, the department must make certain notifications and identify eligible individuals to submit to the Parole Board for release. This bill increases the vacancy rate for when prison population management measures (PPMM) are triggered and makes several changes to PPMM, as described below.

### Increased Vacancy Rate for Prison Population Management Trigger

The bill increases the vacancy rate used to determine when PPMM take effect from 3 percent to 4 percent. In addition, the bill requires that the PPMM stay in effect until the vacancy rate exceeds 5 percent for 30 consecutive days. The bill also changes how the vacancy rate is calculated by including inmates under the jurisdiction of the CDOC but who are housed in a local jail.

### Required Notifications

The bill adds to the list of individuals and entities that the CDOC must notify when the PPMM are in effect. Specifically, the bill adds the General Assembly, community corrections programs, the Office of the Alternate Defense Counsel, the chief probation officer in each Judicial District, the Division of Adult Parole in CDOC, and each county sheriff to the list. Entities receiving notice must acknowledge receipt. The CDOC must also notify all entities if the vacancy rate exceeds 5 percent for 30 consecutive days.

The bill also requires district attorneys, the Office of the State Public Defender, the Office of Alternate Defense Counsel, each chief judge, parole officers, and each chief probation officer to notify employees of the vacancy rate and to encourage alternative sentencing options, when appropriate.

Finally, the bill requires the CDOC to notify the Governor and the Parole Board every 30 days while the PPMM are in effect and provide estimates of the reduction in inmate population needed to achieve a 5 percent vacancy rate.

## **Prison Population Management Measures**

The bill makes several changes to the PPMM, including requirements around community corrections, mandatory release dates, conditional releases, and parole eligible inmates. The bill also adds resentencing considerations for new court commits to the CDOC within 90 days of their parole eligibility date (PED).

### **Community Corrections**

Under the bill, when the PPMM is in effect, the CDOC must request the Office of Community Corrections in the Department of Public Safety (CDPS) to provide information regarding available community beds. In addition, the CDOC must request that:

- community corrections providers review each transition inmate who has resided in the program for more than 180 days and who meets the objectives for an intensive supervision program, and create a list of intensive supervision program-eligible transition inmates with employment and housing options, of which the CDOC must investigate and approve a residence plan;
- CDOC's case managers review the eligibility of each inmate for community corrections program placement and initiate a referral; and
- the Office of Community Corrections investigate expanding the capacity for transition beds.

### **Mandatory Release Date — Additional Earned Time**

Under current law, the CDOC requests that the Parole Board review a list of inmates who are within 90 days of their mandatory release date (MRD), have an approved parole plan, and do not require a full board review or victim notification.

This bill requires, within 5 days after the PPMM takes effect, that the CDOC identify inmates who have been assessed to be medium- or low-risk and who have 30 to 180 days until their MRD or statutory discharge date and grant the inmate an additional 60 days of earned time. The CDOC must submit this list to the Parole Board to ensure conditions of parole will be ordered. This provision does not apply if the individual is serving a sentence for a Victim's Rights Act (VRA) crime or a crime requiring sex offender registration, or has been found guilty of a class I code of penal discipline violation within the last year.

## Conditional Releases

Under current law, the CDOC coordinates with the Parole Board to review a list of inmates who have satisfied their conditions of release and do not require a full board hearing or victim notification. This bill requires that list to be submitted within 14 days after notification of the PPM, and every 30 days thereafter. The CDOC must also inform the Parole Board if a listed inmate has satisfied the conditions required for release. If a specific condition relates to completing a program that has not been satisfied, the Parole Board must determine whether the condition can be satisfied after release and mandated as a condition of parole.

## Parole Eligible Individuals

Under current law, the CDOC must submit to the Parole Board a list of individuals with favorable parole plans and who have been assessed to be medium- or low-risk on the validated risk assessment scale. The Parole Board must conduct a file review of each individual and set conditions of release. This provision only applies to individuals who are:

- serving a sentence for a level 3 or 4 drug felony, or a class 3, 4, 5, or 6 nonviolent felony offense;
- serving a sentence for a non-VRA or sex offender registration crime;
- does not have a class I code of penal discipline violation within the previous 12 months;
- has not been terminated for lack of progress and has not declined to participate in programs that have been recommended and available to the inmate with the last year;
- has not regressed from community corrections or revoked from parole within the previous 180 days; and
- does not have a pending felony charge, detainer, or an extraditable warrant.

This bill adds inmates who have been classified as minimum or minimum restrictive custody and who are past their PED to this list, and removes all but the second and third requirements from the list above. The Parole Board must consider the list as an individual application for parole for each inmate. If an inmate has a pending felony charge, detainer, or extraditable warrant, and who would otherwise be eligible for parole, the CDOC must notify the Office of the State Public Defender liaison to determine if the matter can be resolved on a forthwith basis.

## Resentencing of Certain New Court Commits

When PPMM is in effect, the bill requires the CDOC, within 14 days after an individual is admitted to its custody as a new court commit, to notify the sentencing court for a resentencing hearing if the individual:

- is past or within 90 days of their PED;
- the individual is not serving a sentence for a VRA crime or a sex offender registration crime; and
- the prison sentence is not the result of a plea agreement.

## Reentry Program

The bill allows the CDOC to refer an inmate released due to the above sections to a community-based reentry program.

## Additional PPMMs

If the vacancy rate does not reach 5 percent within 120 days after notifying that PPMM is in effect, the bill requires the CDOC to submit to the Parole Board and the Governor a list of individuals who are serving a sentence and are eligible for parole and are recommended for transfer to community corrections or any other form of release.

The bill also allows:

- the Parole Board to release an inmate who is not serving for a VRA or sex offender registration crime 90 days earlier than their PED;
- the CDOC to refer an inmate to community corrections; and
- the Governor to consider and grant a commutation of a sentence.

## Reporting

The bill requires the CDOC to report for budgeting on the current population in the local jail backlog by county and its compliance with the PPMM.

## **Background**

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### **Community Corrections Transition Placements**

Community Corrections programs, also called “halfway houses” are locally run, state funded and supervised programs that provide supervision as an alternative sentence to the CDOC (called diversion placement), or as a transition for individuals in prison to reenter society (called a transition placement). Transition placements may be referred by the CDOC director or the Parole Board. Programs may be residential, where an individual stays at a facility and is closely monitored, and non-residential when the individual does not live at a facility but does meet with case managers and satisfy other requirements. For [FY 2024-25](#), community correction programs supervised 3,904 clients, of which 1,746 were placed in a program either as a transition from the CDOC or as a condition of parole.

### **Jail Backlog**

Based on the [February Monthly report](#), the CDOC reports a jail backlog of 670 individuals due to vacancy issues within the CDOC. By freeing up beds through releasing individuals, the bill, at least in the short-term, will reduce the backlog and decrease the cost of jail reimbursement payments paid by the department. Currently, the jail reimbursement rate is \$77.16 per day, or \$28,163 per year, and parole costs \$22.98 per day, or \$8,388 per year, resulting in a cost difference of \$19,776 per individual released on parole.

## **Assumptions**

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The sections below outline assumptions regarding the fiscal impacts of initial and additional PPMM. These impacts are only realized when PPMM is in effect. The fiscal note assumes that PPMM will be in effect at least through FY 2027-28, however, the exact timing of when PPMM measures are in effect will depend on decisions made by the Parole Board, CDOC, the Governor, and the General Assembly.

### **Primary Changes to Prison Population Management Measures**

The bill changes five mechanisms that may increase releases when the CDOC is under a PPMM, including encouraging more community correction transition placements, granting earned time for certain individuals within 30 to 180 days of their MRD, notifying when conditions are met, increasing the list of individuals who are eligible for parole, and resentencing certain individuals sentenced to the CDOC but who are within 90 days of their PED. The sections below outline the various assumptions for each of these mechanisms and how they may impact releases.

## Community Correction Transitions

While the bill provides additional information on bed availability in community correction programs, decisions to transition an inmate to a program remain at the discretion of the CDOC, the local community corrections board, and providers. Therefore, the fiscal note cannot provide an estimate on the number of additional individuals who will receive a community correction transition placement under this bill.

## Mandatory Release

According to an initial review by the CDOC, there are an additional 300 individuals (as of March 31, 2026) who would be eligible for earlier release under the bill due to their current MRD. By granting 60 days of earned time, the bill decreases the length of stay for these individuals by that amount of time, resulting in an equivalent of 50 less individuals in the CDOC each year, assuming a similar number of individuals are eligible for release each year.

## Conditional Release

The bill requires the CDOC to notify the Parole Board when an inmate has completed one of their conditions for release, or for the Parole Board to release an individual if a condition can be met in the community. It is unknown how many inmates are waiting for release even though they have completed their conditions; however, the fiscal note assumes it is a minimal amount.

## Parole Eligibility

Under the conditions outlined in the bill, the CDOC estimates that an additional 152 individuals meet the eligibility requirements to be potentially released on parole. According to the Parole Board's SMART Act presentation, for the first 5 months of the current PPMM, the board released 29 individuals from a list of 237, which includes individuals that the board found ineligible. Using that ratio (12 percent), it is assumed that if the CDOC submits an additional 152 individuals, if a similar amount is found ineligible or denied parole, the bill will result in an additional 19 individuals released. Assuming a similar number of parole eligible individuals are submitted each year, this impact is ongoing. The fiscal note assumes that releases due to parole eligibility will occur at least a year earlier, on average, than under current law.

## Resentencing

The bill allows a court to resentencing certain individuals who are within 90 days of their PED when they are sentenced to the CDOC. Because the bill applies to only a specific circumstance and does not apply to VRA crimes or sex offender registration crimes, the number of individuals going to a rehearing and potentially receiving an alternate sentence is assumed to be minimal.

## Total Release Assumption

Based on the assumptions listed above, the fiscal note assumes the bill will result in at least 319 individuals released from the CDOC in FY 2026-27 and FY 2027-28. Taking into account that 300 of these individuals are only being released 60 days early, this results in a year equivalent of 69 individuals being released.

## Additional Prison Population Management Measures

The bill allows the Parole Board, the CDOC, or the Governor to release additional individuals if the vacancy rate is not above 5 percent after 180 days. Because these releases are discretionary, the fiscal note has not made an estimate of how this provision will impact releases.

## State Expenditures

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On net, the bill decreases state expenditures by \$320,000 in FY 2026-27 and \$880,000 in FY 2027-28. Costs and savings are from the General Fund and will be incurred in the CDOC and the CDPS, as shown in Table 2 and described in the sections below.

**Table 2**  
**State Expenditures**  
**All Departments**

<b>Department</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Department of Corrections	-\$964,411	-\$1,000,611	Not estimated
Department of Public Safety	\$649,222	\$163,222	Not estimated
<b>Total Costs</b>	<b>-\$315,189</b>	<b>-\$837,389</b>	<b>Not estimated</b>

## Department of Corrections

The CDOC will have staff and parole costs as well as jail backlog savings beginning in FY 2026-27, as described below and shown in Table 2A.

### Staff

The CDOC requires 4.0 FTE—including technicians and case managers—to make the necessary time computations and ensure their accuracy, create required notifications and eligibility lists, and coordinate with community correction boards. These costs will be incurred each time the vacancy rate falls below 4 percent. The fiscal note assumes these costs are required through FY 2027-28. In future years, PPMM will depend on decisions made by the General Assembly regarding the prison population, and will be addressed through the annual budget process. Staff costs assume a July 1 start date, and include standard operating and capital outlay costs, as well as costs for CDOC-required trainings.

### Jail Backlog Costs

In FY 2026-27, the bill is estimated to decrease expenditures in jail backlog costs by at least \$1.9 million assuming the release of the equivalent of 69 individuals per year in the next two fiscal years, as outlined in the Assumptions section above. This estimate will also be affected by additional individuals placed in community corrections, on parole, or resentenced. Since those releases or resentencing are at the discretion of the Parole Board, community correction boards, and the courts, savings will vary from this amount.

### Parole Costs

Proportionally to jail backlog costs, the bill increases parole-related costs by an estimated \$600,000 in the next two fiscal years. In future years, costs will increase to the extent additional persons are released to parole earlier, transitioned to community correction, or resentenced by the courts.

**Table 2A**  
**State Expenditures**  
**Department of Corrections**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$275,104	\$275,104	Not estimated
Operating Expenses	\$5,120	\$5,120	Not estimated
Capital Outlay Costs	\$28,000	\$0	Not estimated
Jail Backlog Costs	-\$1,943,275	-\$1,943,275	Not estimated
Parole Costs	\$578,751	\$578,751	Not estimated
Training Costs	\$8,300	\$100	Not estimated
Centrally Appropriated Costs	\$83,589	\$83,589	Not estimated
<b>Total Costs</b>	<b>-\$964,411</b>	<b>-\$1,000,611</b>	<b>Not estimated</b>
<b>Total FTE</b>	<b>4.0 FTE</b>	<b>4.0 FTE</b>	<b>Not estimated</b>

### Department of Public Safety

State expenditures in the CDPS will increase to make modifications to the community correction billing system and for staff to manage additional data. These costs are detailed below and shown in Table 2B.

**Staff**

Starting in FY 2026-27 through FY 2027-28, the CDPS requires 1.0 FTE to coordinate data submission, to assist community correction programs in reporting, to ensure data reports are accurate with the various community correction boards, and to provide additional research on expanding beds. Staff assumes a July 1 start date, and includes standard operating and capital outlay costs as well as costs for training and statistical analysis software.

**Billing System Upgrades**

In FY 2026-27, the bill increases expenditures by \$523,000 to make modifications to the Community Correction Information and Billing System to collect and report required data. IN FY 2027-28, costs are \$44,000 for maintenance and hosting.

**Community Corrections Beds**

To the extent additional individuals are placed in community correction beds instead of remaining in the CDOC, costs to pay for their beds may increase. The General Assembly appropriates payments through the Long Bill to cover the costs of a certain number of beds. The fiscal note assumes that community correction programs will determine placement in their programs based on the current appropriation, and the number of beds available. If no beds become available due to demand, the fiscal note assumes the General Assembly will adjust appropriations through the annual budget process.

**Table 2B  
 State Expenditures  
 Department of Public Safety**

<b>Cost Component</b>	<b>Budget Year FY 2026-27</b>	<b>Out Year FY 2027-28</b>	<b>Out Year FY 2028-29</b>
Personal Services	\$80,916	\$80,916	Not estimated
Operating Expenses	\$1,280	\$1,280	Not estimated
Capital Outlay Costs	\$7,000	\$0	Not estimated
Training and Software Costs	\$15,000	\$15,000	Not estimated
Billing System Upgrades	\$523,000	\$44,000	Not estimated
Centrally Appropriated Costs	\$22,026	\$22,026	Not estimated
<b>Total Costs</b>	<b>\$649,222</b>	<b>\$163,222</b>	<b>Not estimated</b>
<b>Total FTE</b>	<b>1.0 FTE</b>	<b>1.0 FTE</b>	<b>Not estimated</b>

## **Judicial Department**

The bill increases workload in the Judicial Department to hear additional resentencing hearings. As outlined in the assumption section, the fiscal note assumes that resentencing hearings will be minimal and therefore, no change in appropriation is required. In addition, to the extent these hearings result in probation sentences in lieu of CDOC sentences, costs in probation will increase. Similar to the trial courts, any increase is assumed to be minimal.

## **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. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in the tables above.

## **Local Government**

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Workload to community correction programs run by local governments will increase to provide additional information to the CDOC. To the extent additional individuals are placed in their care, costs will increase to provide services for those individuals, which are offset by state funding.

## **Effective Date**

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

## **State Appropriations**

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For FY 2026-27, the bill requires a net reduction in General Fund appropriations of \$420,804 including:

- a reduction of \$1,048,000 to the Department of Corrections, with an increase of 4.0 FTE; and
- an increase of \$627,196 to the Department of Public Safety, and 1.0 FTE.

## **Departmental Difference**

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The CDOC estimates the bill will increase costs by \$564,000 and 6.0 FTE in FY 2026-27 and \$557,000 and 6.0 FTE in FY 2027-28 and future years. This is based on two assumptions: first, that the jail backlog will outgrow any savings identified in the fiscal note, resulting in minimal savings from any releases, and second, that more staff is required to conduct the time computation and reporting required by the bill.

The fiscal note shows savings, due to the assumption that the General Assembly will fund the jail backlog under current law requirements as it considers the FY 2026-27 budget. If the jail backlog outgrows these expectations, additional funds should be requested through the annual budget process, not through the fiscal note. In addition, the fiscal note estimates that 4.0 FTE is sufficient for the work required by the bill.

## **State and Local Government Contacts**

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Corrections

Judicial

District Attorneys

Public Safety