



**Colorado  
Legislative  
Council  
Staff**

**HB17-1288**

**FINAL  
FISCAL NOTE**

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

<b>Drafting Number:</b> LLS 17-0083	<b>Date:</b> August 2, 2017
<b>Prime Sponsor(s):</b> Rep. Saine; Foote Sen. Cooke; Court	<b>Bill Status:</b> Signed into Law
	<b>Fiscal Analyst:</b> Kerry White (303-866-3469)

**BILL TOPIC:** PENALTIES FOR FELONY DUI OFFENDERS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures*	Minimal workload impact.	
<b>Appropriation Required:</b> None.		
<b>Future Year Impacts:</b> Ongoing minimal workload impact.		

\* See the State Expenditures section for additional information about potential impacts for the Colorado Department of Transportation.

**Summary of Legislation**

This bill establishes new sentencing requirements for the offenses of felony DUI, DUI *per se*, or DWAI when an offender is sentenced to probation. Under the bill, the court is required to impose a sentence of between 90 and 180 days in county jail. During the mandatory 90-day period of imprisonment, the offender is not eligible for reductions in his or her sentence, except that he or she may receive credit for time served in custody prior to conviction. In certain circumstances, the offender is required to serve between 120 days and two years in county jail through participation in an available work release program and during the required minimum 120 days, sentencing reductions or other sentencing alternatives are also not permitted except to credit time served prior to conviction or to grant permission for an offender to leave jail to obtain medical treatment. A probation sentence must also require the offender to complete between 48 and 120 hours of useful public service, which may not be suspended.

**Background**

House Bill 15-1043 increased the penalty from a misdemeanor to a class 4 felony after three or more prior convictions of a DUI, DUI *per se*, or DWAI; vehicular homicide; vehicular assault; or any combination thereof. Convictions from other U.S. states and territories are deemed to apply if they would constitute the same offense in Colorado. The court is required to consider whether all reasonable and appropriate alternative sentences have been exhausted and to determine that incarceration is the most suitable option before imposing a term in the Department of Corrections (DOC). If sentenced to a term of incarceration, the penalty for a class 4 felony is a sentence of between two and six years.

The felony DUI law applies to offenses committed on or after August 5, 2015. Between the law's effective date and December 31, 2016, there have been 635 convictions of felony DUI statewide. Of this number, 490 were sentenced to jail and 170 were also sentenced to DOC. The gender composition of these offenders includes 616 males and 19 females; the racial composition is 594 Caucasians, 22 African Americans, 16 Hispanics, and 3 Asians.

## Assumptions

**State revenue.** The fiscal note assumes that supervision fees are assessed at sentencing for the length of probation and because the jail sentence is a condition of probation, probation supervision fees will not be reduced by the amount of time an offender is incarcerated. In addition, based on data from the Judicial Department, all offenders have had some useful public service assignment; only three offenders to date have received less than the 48 hours required by House Bill 17-1288. As such, the bill is not anticipated to affect useful public service fees imposed by the court. The fiscal note assumes that there is no impact on state revenue under the Judicial Department as a result of the bill.

## State Expenditures

Beginning in FY 2017-18, this bill impacts workload for the Judicial Department. To the extent that mandatory minimum jail times increase the likelihood of felony DUI cases reaching trial, workload for trial courts and any agencies providing representation to offenders will increase. To the extent that the bill reduces the amount of time offenders spend under probation supervision, workload will decrease. Overall, these impacts are not expected to require adjustments in appropriations for any agency within the Judicial Department.

**Conditional impact on the Colorado Department of Transportation.** This bill may increase expenditures as a result of any moneys received from the National Highway Traffic Safety Administration and the Federal Highway Administration. The state is out of compliance with federal requirements concerning mandatory minimum sentences for certain DUI offenses, which this bill seeks to correct. If enacted, about \$12 million per year in federal funds may become available to the Colorado Department of Transportation for safety projects in jurisdictions where DUI offenses occur most frequently. These impacts are contingent upon federal agency actions and have not been included in the estimate for House Bill 17-1288.

## Local Government Impact

This bill increases costs for county jails. The cost to house an offender in a county jail varies from about \$53 to \$114 per day. It is assumed that the impact of this bill will vary by jurisdiction where convictions occur and the length of the jail term imposed. The precise impact to any individual jurisdiction has not been estimated.

## Effective Date

The bill was signed into law by the Governor on June 6, 2017, and takes effect August 9, 2017, assuming no referendum petition is filed.

**State and Local Government Contacts**

Corrections  
Municipalities

Counties  
Public Safety

District Attorneys  
Sheriffs

Judicial