



**Colorado
Legislative
Council
Staff**

HB17-1330

FISCAL NOTE

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

Drafting Number: LLS 17-1162 **Date:** April 13, 2017
Prime Sponsor(s): Rep. Lee **Bill Status:** House Judiciary
 Sen. Fields; Cooke **Fiscal Analyst:** Kerry White (303-866-3469)

BILL TOPIC: NO ESCAPE CONVICTIONS FOR HABITUAL CRIMINALS

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue Cash Funds	Potential minimal increase.	
State Expenditures General Fund	Reduction. See State Expenditures section.	
TABOR Impact	Potential minimal increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing potential minimal revenue increase and expenditure decrease.		

Summary of Legislation

Current law states that a conviction for escape or attempted escape may not be used to adjudicate an offender as an habitual criminal unless the conviction is based on the offender's escape or attempted escape from a correctional facility. This bill clarifies that this prohibition applies to current and prior convictions for escape or attempted escape and that the definition of a correctional facility does not include a community corrections facility.

Background

Under current law, a person is adjudicated as a habitual criminal and subject to enhanced sentencing if:

- he or she is convicted of a class 1, 2, 3, 4, or 5 felony or a level 1, 2, or 3 drug felony and has two previous, separate felony convictions within the last ten years; or
- he or she is convicted of any felony and has three previous, separate felony convictions.

For offenders with two previous, separate felony convictions, the penalty for their conviction as an habitual criminal is a sentence to the Department of Corrections (DOC) for a term of three times the maximum of the presumptive range. If the offender's third offense was a level 1 drug felony, the penalty is 48 years in prison. For offenders with three previous, separate felony convictions, the penalty for his or her conviction as an habitual criminal is a prison sentence of four times the maximum of the presumptive range for the class or level of felony, unless the conviction is for a level 1 drug felony, in which case the sentence is 64 years in prison, or a crime of violence, in which case the sentence is life in prison.

Over the last three years, there have been 159 offenders sentenced under the habitual criminal statute. Of these, 100 were White, 45 were African American, 9 were Hispanic, 2 were Asian, 2 were classified as other, and 1 was Indian; 157 were male and 2 were female. Two cases involved escape charges, but it is unknown whether either case involved a correctional facility or how many of these offenders had previous escape convictions.

State Revenue

Overall, the bill may increase state revenue if it reduces the number of cases adjudicated under habitual criminal statutes and if changing the definition of a correctional facility allows certain felony-level offenders to be sentenced to a term of probation rather than incarceration. Offenders on probation pay a supervision fee of \$50 per month. This analysis assumes that any revenue impact is likely to be minimal and the timing of any such impact has not been estimated.

TABOR Impact

This bill may minimally increase state cash fund revenue from probation supervision fees, which will increase the amount of money required to be refunded under TABOR for FY 2017-18 and FY 2018-19. TABOR refunds are paid out of the General Fund. Since the bill increases the TABOR refund obligation without a corresponding change in General Fund revenue, the amount of money available in the General Fund for the budget will decrease by an identical amount.

State Expenditures

Overall, this bill may reduce state expenditures in the future. To the extent that fewer cases are adjudicated under the habitual criminal statute, trial court workload and workload for agencies that provide representation to indigent offenders (Office of the State Public Defender and the Office of the Alternate Defense Counsel) may decrease. The terms of incarceration for offenders sentenced to the DOC may also decrease. If changing the definition of a correctional facility causes more felony-level offenders to be sentenced to probation in lieu of the DOC, workload for probation services will increase. The timing of any such impacts is unknown, and the fiscal note assumes that any required adjustments in appropriations will be addressed through the annual budget process.

Effective Date

The bill takes effect August 9, 2017, if the General Assembly adjourns on May 10, 2017, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Corrections
Information Technology

District Attorneys
Judicial

Human Services
Public Safety