



**Legislative
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FISCAL NOTE

Drafting Number: LLS 18-0941 **Date:** April 23, 2018
Prime Sponsors: Rep. Lee; Herod **Bill Status:** House Judiciary
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Bill Topic: PRESUMPTIVE PAROLE OF NONVIOLENT OFFENDERS

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 creates the Community Crime Survivors Grant Program in the Colorado Department of Public Health and Environment (CDPHE) and establishes a presumption in favor of granting parole to inmates who meet certain programming and behavioral standards. It increases state expenditures beginning in the current FY 2017-18 through FY 2022-23, and may reduce state expenditures on an ongoing basis.

Appropriation Summary: For FY 2018-19, the bill requires an appropriation of \$883,600 to multiple agencies.

Fiscal Note Status: The fiscal note reflects the introduced bill.

**Table 1
State Fiscal Impacts under HB 18-1409**

		FY 2017-18 <i>(current year)</i>	FY 2018-19	FY 2019-20
Revenue			-	-
Expenditures	General Fund	-	up to \$883,600	up to \$850,000
Transfers		-	-	-
TABOR Refund		-	-	-

Summary of Legislation

This bill creates the Community Crime Survivors Grant Program in the Colorado Department of Public Health and Environment (CDPHE) and establishes a presumption in favor of granting parole to inmates who meet certain programming and behavioral standards.

Grant program. Subject to available appropriations, the CDPHE is required to develop and implement the grant program, which is intended to provide funding to entities that provide support services and other interventions to crime survivors. On or before July 1, 2018, the CDPHE must develop policies for the administration of the program, including a competitive process for a nonprofit third-party administrator, which must be selected by September 2, 2018, and under contract by January 1, 2019. The bill specifies requirements for the administrator, grantees, and how the program should be operated. The grant program is repealed on September 1, 2023. Prior to its repeal, the Department of Regulatory Agencies (DORA) is required to conduct a sunset review of the program.

Parole. This bill creates a presumption in favor of granting parole to an inmate at an initial or any subsequent parole application when he or she has reached his or her parole eligibility date (PED) and who:

- is not serving a sentence for a crime of violence, a class 2 or class 3 felony, a class 1 drug felony, or a crime listed in the crime victim compensation and rights statute;
- has not incurred a class I code of penal discipline violation within the preceding 36 months or since his or her admission to prison if he or she has been incarcerated for less than 36 months;
- has not incurred a class II code of penal discipline violation within the preceding 12 months or since his or her admission to prison if he or she has been incarcerated for less than 12 months;
- has participated in all programs that have been recommended and made available to him or her, unless such programs may be ordered as a condition of parole;
- has a parole plan approved by the Division of Adult Parole;
- does not have a felony warrant, detainer, or pending criminal charges in Colorado or another state or an immigration detainer unless the order of parole is to the custody of the agency issuing the warrant, detainer, or criminal charges; and
- is recommended for release by the administrative release guideline instrument.

If the State Board of Parole finds an inmate's parole plan inadequate, it may delay the parole release decision and require the Department of Corrections (DOC) to submit a revised parole plan developed in conjunction with the inmate within 30 days.

The presumption created by the bill may be set aside and the parole denied if the State Parole Board finds, by a majority vote, that the inmate presents a substantial risk to reoffend. The chairperson of the State Parole Board must report to the DOC, which must then report to the General Assembly through its annual SMART Act Hearing, about the number of inmates who were considered for parole as a result of this bill and the outcome of their cases.

Background and Assumptions

Grant programs. For the purposes of developing a cost estimate in this bill, staff analyzed four grant programs for crime victims managed by the Department of Public Safety. Specifically, the Sexual Assault Services Program (SASP) and the Violence Against Women Act (VAWA) were evaluated as being similar in purpose and scope. The SASP program provides funding to organizations that provide direct intervention and related assistance to victims of sexual assault. In 2018, the SASP program provided five grants totaling about \$318,000. VAWA program funds are provided on a competitive basis to help develop and strengthen effective law enforcement, prosecution, judicial strategies, and victim services throughout Colorado in cases involving violent crime against women. In 2018, the VAWA program provided 19 grants totaling \$2.1 million. Of this number, 8 grants totaling \$857,056 were made to nonprofit organizations providing victim services and interventions. The fiscal note uses the VAWA program funding for nonprofit organizations as a proxy for the grant program to be operated by the CDPHE.

Offender eligibility. According to the DOC, there were 8,162 offenders in custody who were past their PED as of April 2, 2018. Of this number, approximately 960 offenders could be eligible for presumptive parole under the bill. Further, 126 offenders are technical parole violators and are on a different time track for release and 356 offenders are sentenced under drug felonies, for which less restrictive statutes exist concerning eligibility for release. The remaining 478 offenders are past their PED for a variety of reasons. The State Parole Board's rate of discretionary releases for all offenders averages about 50 percent.

State Expenditures

This bill increases state workload beginning in the current FY 2017-18. General Fund costs are increased by up to \$883,600 in FY 2018-19 and \$850,000 per year thereafter through the repeal of the grant program. Conditional upon decisions made by the State Parole Board, costs may also decrease on an ongoing basis.

Colorado Department of Public Health and Environment. Workload increases for the CDPHE to develop a competitive bid process and select a third-party administrator to manage the grant program created under the bill. The fiscal note assumes that this workload can be accomplished within the CDPHE's existing appropriations. For purposes of grant making, the fiscal note assumes that an appropriation of \$850,000 General Fund is required per year. Future year grants may vary depending on appropriations decisions made by the General Assembly. This amount will cover both grant awards and the administrative expenses of the third-party administrator.

Department of Corrections. Costs will increase by \$33,600 in FY 2018-19 only for 300 hours of computer programming to modify the Parole Board program to meet the requirements of the bill. This work will be completed by the Office of Information Technology. Workload also increases to assist in the reporting required by the bill, for which no additional appropriations are required.

Following implementation of the bill, and to the extent that more inmates are released on parole, costs will be reduced for the department. For context, it costs an average of \$104.51 per offender in DOC, per day in a state-operated prison or \$60.47 per offender, per day in a private contract prison. If an offender is paroled, the cost per offender, per day is \$13.03. Thus, for each offender that is placed on parole, the savings to the DOC ranges between \$47.44 and \$91.48 per

offender, per day. Because the variables outlined in the bill depend on a number of factors and the discretion exercised by the Parole Board, the precise fiscal impact to the DOC cannot be determined at this time. The fiscal note assumes that any reductions in appropriations required for the DOC in the future will be addressed through the annual budget process.

State Parole Board. Workload may increase in the current FY 2017-18 for the State Parole Board to conduct any additional offender reviews and to assist in the reporting required by the bill. This workload increase is assumed to be minimal and does not require additional appropriations.

Department of Regulatory Agencies. Workload increases for the department to conduct a sunset review of the grant program in FY 2022-23. This workload increase is anticipated to be accomplished within the department's existing sunset review process and does not require an increase in appropriations.

Effective Date

The bill takes effect upon signature of the Governor.

State Appropriations

For FY 2018-19, the bill requires an appropriation of \$33,600 General Fund to the Department of Corrections, the entire amount of which should be reappropriated to the Office of Information Technology. In addition, the bill requires an appropriation of \$850,000 General Fund to the Colorado Department of Public Health and Environment.

State and Local Government Contacts

Corrections
Public Health and Environment

Information Technology
Regulatory Agencies