



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

**Drafting Number:** LLS 18-0096  
**Prime Sponsors:** Rep. Liston; Valdez

**Date:** February 14, 2018  
**Bill Status:** House SVMA  
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**Bill Topic:** PENALTY FOR BURGLARY OF FIREARMS

- Summary of Fiscal Impact:**
- State Revenue
  - State Expenditure
  - State Transfer
  - TABOR Refund
  - Local Government
  - Statutory Public Entity

This bill makes second degree burglary with the objective of stealing firearms a class 3 felony and increases the minimum fine that can be imposed to \$10,000. The bill increases state revenue and expenditures, and local expenditures and workload, on an ongoing basis.

**Appropriation Summary:** This bill requires a five-year appropriation of \$1,401,432 to the Department of Corrections.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under HB18-1077**

		FY 2018-19	FY 2019-20	FY 2020-21
<b>Revenue</b>	Cash Funds	at least \$10,000	at least \$10,000	at least \$10,000
<b>Expenditures</b>	General Fund	-	-	\$69,856
<b>Transfers</b>		-	-	-

## **Summary of Legislation**

This bill enhances the sentence for second degree burglary from a class 4 felony to a class 3 felony if the objective of the burglary is the theft of one or more firearms, firearm parts, firearm accessories, or ammunition. The bill allows the courts to impose a fine of \$10,000 to \$750,000 for an individual convicted of second degree burglary with the objective of stealing a firearm or accessory.

## **Comparable Crime**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. This bill changes the element of an existing crime by making burglary of a firearm or accessory a class 3 felony. From January 2015 to January 2018, 4,043 people were sentenced for committing second degree burglary. Of that number, 3,524 were male, 517 were female, and 2 where gender was not identified. Demographically, 3,053 were Caucasian, 599 were African American, 306 were Hispanic, 39 were Asian, 21 were American Indian, 23 were other, and 2 where race was not identified. Under current law, second degree burglary is a class 4 felony unless the burglary was of a dwelling or the objective was to steal a controlled substance lawfully kept within a building, then it is a class 3 felony. For informational purposes, of the 4,043 people sentenced for committing second degree burglary, 1,112 were charged with a class 3 felony. According to the U.S. Attorney's Office, there were 12 individuals charged with stealing a firearm or accessory in Colorado, in 2017. Based on this and information provided by the Colorado District Attorney's Council, the fiscal note estimates that in one year, there are 18 cases of second degree burglary with the objective of stealing a firearm or accessory that would be a class 3 felony under this bill.

## **Assumption**

The fiscal note assumes that although the bill takes effect upon the signature of the Governor, no impact will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. If impacts arise in the first year, this analysis assumes the DOC will request any required appropriations through the annual budget process.

## **State Revenue**

Beginning in FY 2018-19, this bill is anticipated to increase state revenue by at least \$10,000 per year.

**Criminal fines.** The bill is anticipated to increase state revenue by at least \$10,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The bill makes the fine penalty for a class 3 felony offense, with the objective of stealing a firearm or accessory, \$10,000 to \$750,000. Under current law, second degree burglary with the objective of stealing a firearm or accessory is a class 4 felony with a fine ranging between \$2,000 to \$500,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined, but is expected to be at least \$10,000 because of the number of cases and the increase in minimum fine.

**State Expenditures**

Beginning in FY 2018-19, this bill increases workload and state expenditures in the Judicial Department and agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of the Alternate Defense Counsel. It is also expected to increase state General Fund expenditures in the Department of Corrections (DOC), as discussed below.

**Judicial Department.** From January 2016 to January 2018, trial courts saw about 8,000 cases filed with at least one charge of second degree burglary. The bill is not expected to increase the amount of second degree burglary cases but may see an increase of workload from an increase of litigation due to the higher charge. Probation costs may also increase to the extent that individuals sentenced to probation will be on it for a longer period. Any cost or workload increases can be accomplished within existing appropriations.

**Agencies providing representation to indigent persons.** Workload and costs for the Office of the State Public Defender and the Office of the Alternate Defense Counsel (ADC) may increase under the bill. More serious charges increase case length, case costs, and are more likely to go to trial. To the extent this occurs, this analysis assumes the affected offices will request an increase in appropriations through the annual budget process. For informational purposes, the average cost to the ADC for a felony 4 case is \$1,320 and the average cost for a felony 3 case is \$2,414.

**Department of Corrections.** This bill increases prison bed and parole costs for the DOC by \$1.4 million for a five-year period with impacts beginning in FY 2020-21, as discussed below.

**Prison beds.** This bill is anticipated to increase state General Fund expenditures for the DOC by an estimated \$1.4 million for a five-year period with impacts beginning in FY 2020-21. This increase assumes at least 18 offenders will be sentenced to prison for a class 3 felony every year and have an average length of stay of 74.9 months instead of 33.9 months for a class 4 felony. Table 2 shows the estimated cost of the bill over the next five fiscal years.

**Table 2  
Prison Costs Under HB 18-1077**

	<b>Inmate Bed Impact</b>	<b>Operating Cost</b>
FY 2018-19	0	\$0
FY 2019-20	0	\$0
FY 2020-21	3.17	\$69,856
FY 2021-22	21.17	\$467,144
FY 2022-23	39.17	\$864,432
<b>Total Cost</b>	<b>63.51</b>	<b>\$1,401,432</b>

**Parole.** Once an offender is released from prison, he or she is assigned to parole. Because class 3 felonies have an average of imprisonment of 74.9 months, parole costs are assumed to occur outside of the five years period the fiscal note is estimating. Parole costs the DOC an average of \$13.03 per day, per person. An individual convicted of a class 4 felony spends, on average, 26.1 months on parole, while an individual convicted of a class 3 felony spends 41.9 months. For additional information about costs in fiscal notes for bills affecting the Department of Corrections, please visit: [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes).

### **Local Government Impact**

The bill will increase workload and expenditures for district attorneys. As noted above for the state, raising the felony class for second degree burglaries with the objective of stealing a firearm or accessory is expected to increase litigation.

### **Effective Date**

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

### **State Appropriations**

The bill requires the five-year appropriations of \$1,401,432 General Fund to the Department of Corrections, as shown in Table 2, above.

### **State and Local Government Contacts**

Corrections	Counties	District Attorneys
Information Technology	Judicial	Municipalities
Natural Resources	Sheriffs	Public Safety