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Nonpartisan Services for Colorado's Legislature

HB 18-1410

REVISED FISCAL NOTE

(replaces fiscal note dated April 23, 2018)

Drafting Number: LLS 18-1123 Date: April 27, 2018
Prime Sponsors: Rep. Lee; Herod Bill Status: House Second Reading
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Bill Topic: PRISON POPULATION MANAGEMENT MEASURES

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

The bill requires the Department of Corrections to track the vacancy rate among its prison beds and provides options for managing the prison population under certain circumstances. The bill is anticipated to reduce state expenditures in the future.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee.

Summary of Legislation

This bill requires the Department of Corrections (DOC) to track the vacancy rate of prison beds in DOC facilities and state-funded private prison beds under contract with the DOC. If the prison bed vacancy rate falls below 2 percent or exceeds 3 percent for 30 consecutive days, the DOC must notify the Governor, Joint Budget Committee, the State Parole Board, each elected district attorney, the chief judge of each judicial district, the State Public Defender, and the Office of Community Corrections in the Department of Public Safety (DPS).

Prison population management options. If the prison bed vacancy rate falls below 2 percent for 30 consecutive days, the DOC may:

- request that the DPS provide information about the location and nature of any unused community corrections beds. The DPS must respond within 72 hours of the request and provide updated information on a weekly basis until it is notified that the vacancy rate exceeds 3 percent;
request 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 full State Parole Board review or victim notification;
coordinate with the State Parole Board to review the list of inmates who have satisfied the conditions for conditional release verified by the DOC, do not require full Parole Board review or victim notification, and have satisfied the condition(s) required for an order to parole; or

- use any or all of these measures described above until the vacancy rate is above 3 percent for 30 consecutive days.

**State Parole Board.** The State Parole Board must conduct a file review for each inmate listed on the notifications created under the bill, as described above. The file review must occur within 10 days after receiving the notification. If the State Parole Board grants parole to an inmate who is within 90 days of his or her MRD, it may set the release date up to 30 days prior to the inmate's MRD but not sooner than 15 days after the file review. The DOC must notify the inmate's parole sponsor to verify his or her willingness and ability to sponsor the inmate on the amended release date. If the State Parole Board grants parole to an inmate who has conditional parole approval, it may set the release date no sooner than 15 days after the file review. The DOC must also make notifications to the inmate's parole sponsor about the amended release date.

**Background and Assumptions**

**Prison beds.** According to the DOC's March 2018 Monthly Population and Capacity Report, there are 14,473 prison beds within 22 state-operated prisons. This number excludes beds reserved for discipline, investigations, holding or infirmary. As of March 31, 2018, there were 14,078 inmates in these facilities and 131 offenders assigned to a state-operated facility, but located elsewhere (for reasons that include court appearances, medical appointments, participation in Correctional Industries fire crew or removal from the population to another facility or center). There were an additional 3,787 inmates assigned to one of three private prisons as of this date.

**Community corrections beds.** The current FY 2017-18 Long Bill contains funding for 3,642 community corrections beds, which are overseen by 22 local boards. The allocation of these beds by type is shown in Table 2. In September 2017, there were about 500 beds that were unused; that number was expected to grow to close to 600 by the end of 2017.

**Table 2  
 FY 2017-18 Community Corrections Bed Type Allocation**

<b>Placement Type</b>	<b>Diversion</b>	<b>Transition</b>	<b>Parole</b>	<b>Total</b>
Standard Residential	1,183	1,111	109	<b>2,403</b>
Cognitive Behavioral Treatment Pilot	48	-	-	<b>48</b>
Intensive Residential Treatment	39	43	74	<b>156</b>
Inpatient Therapeutic Community	78	49	15	<b>142</b>
Residential Dual Diagnosis Treatment	71	46	14	<b>131</b>
Sex Offender	57	20	13	<b>90</b>
Standard Non-Residential	574	5	5	<b>584</b>
Outpatient Day Treatment	2	-	-	<b>2</b>
Outpatient Therapeutic Community	55	25	6	<b>86</b>
<b>Total</b>	<b>2,107</b>	<b>1,299</b>	<b>236</b>	<b>3,642</b>

**State Expenditures**

This bill is expected to reduce costs in future years.

**Department of Corrections.** To the extent that inmates are released on parole or placed in a community corrections bed, costs will be reduced for the DOC. For context, it costs an average of \$104.51 per offender, 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 DOC, the Parole Board, and local Community Corrections Boards, 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 increases for the State Parole Board to conduct additional file reviews and meet the timelines required by the bill. This workload increase is assumed to be minimal and does not require additional appropriations.

**Department of Public Safety.** If additional offenders are placed in community corrections beds, costs for the department could increase. As noted above, there are currently vacancies within funded community corrections beds; therefore, the fiscal note assumes that no changes in appropriations are required for the DPS at this time. If the DPS requires additional appropriations in the future, the department can request them through the annual budget process.

**Effective Date**

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

**State and Local Government Contacts**

Corrections  
Information Technology

District Attorneys  
Judicial

Governor  
Public Safety