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Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated May 10, 2021)

Drafting Number: LLS 21-0567
Prime Sponsors: Sen. Lee
Rep. Bacon

Date: May 27, 2021
Bill Status: House Appropriations
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Bill Topic: **IMPROVE PRISON RELEASE OUTCOMES**

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

This bill modifies the eligibility criteria for special needs parole; requires the Office of the State Public Defender to provide a liaison to the Department of Corrections; requires the DOC to pay health insurance premiums for up to six months for certain released senior inmates; and requires studies on health care coverage for senior inmates upon release and of the youthful offender system. On net, beginning in FY 2021-22, the bill reduces state expenditures on an ongoing basis and may increase state revenue beginning.

Appropriation Summary: For FY 2021-22, the bill requires a net reduction in appropriations of \$124,242. See State Expenditures section for detailed impacts to the DOC, the Office of the State Public Defender, and the Department of Human Services.

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

**Table 1
State Fiscal Impacts Under SB 21-146**

		Budget Year FY 2021-22	Out Year FY 2022-23
Revenue		-	-
Expenditures	General Fund	(\$124,242)	(\$131,366)
	Centrally Appropriated	\$124,242	\$131,366
	Total Expenditures	\$0	\$0
	Total FTE	7.3 FTE	7.8 FTE
Transfers		-	-
TABOR Refund		-	-

Summary of Legislation

The bill primarily makes changes to parole eligibility and re-entry requirements for senior and special needs inmates in the Department of Corrections (DOC). These and the bill's other provisions are detailed below.

Special needs offenders and parole. With exceptions for inmates convicted to certain offenses, the bill changes the eligibility criteria for special needs offenders.

The DOC and the Parole Board are required to develop policies and procedures to improve the special needs parole process. An inmate may request that the DOC determine whether they are eligible for special needs parole. The bill removes the requirement that the DOC make a recommendation as to whether an inmate eligible for special needs parole should be released. In all cases where an inmate is eligible for special needs parole, the inmate may only be denied parole upon a majority vote of the Parole Board.

General parole requirements. The bill requires the DOC to develop a recommended parole plan for every inmate prior to release from prison; develop policies and procedures related to pre-release planning; and include in its monthly population report information related to delayed parole decisions. The Parole Board is prohibited from denying parole based solely on the lack of a recommended parole plan.

Parole board hearings for unauthorized absence offenders. The bill requires the Parole Board to schedule a parole hearing for an inmate serving a sentence for escape or attempt to escape, which would now constitute the offense of unauthorized absence, within 60 days.

Public Defender Liaison. The bill requires the Office of State Public Defender (OSPD) to provide a liaison to the DOC and the Parole Board to assist inmates with legal matters related to detainers, bonds, holds, competency, special needs parole applications, commutation applications, or other criminal-related legal matters.

Health insurance premium coverages for senior inmates upon release. The DOC must ensure that any inmate who is 65 years of age or older and is being released from prison is enrolled in the most appropriate medical insurance benefit plan. The DOC must pay any insurance premiums and penalties for up to 6 months from the start of coverage.

Commission on Aging study of health insurance for senior inmates upon release. The bill requires the Colorado Commission on Aging in the Department of Human Services (DHS) to study and make recommendations related to health insurance enrollment for inmates who are 65 years of age or older upon release from prison. The commission is requiring to report its findings to the legislature by January 1, 2022.

Youth Offender System study and requirements. The DOC is required to conduct a study, using gifts, grants, and donations, with external experts regarding the effectiveness of the Youthful Offender System (YOS) and the potential of expanding the system to serve offenders up to 25 years old. The bill also requires YOS staff to be trained in the first 45 days of employment and repeals the requirement that district attorneys keep records of all juveniles sentenced to the YOS.

Inmate movement during a declared disaster emergency. Finally, the bill allows the Colorado State Penitentiary II to be used to house inmates to facilitate movement of inmates during a declared disaster emergency that impacts state prison operations.

Work and Gain Education and Employment Skills (WAGEES) program. The bill's cost savings are directed to the WAGEES program to provide funds to community partners that provide re-entry services with the goal of reducing recidivism, enhancing public safety, and increasing a parolee's chance of achieving success in the community.

State Revenue

The bill may increase revenue to the DOC from gift, grants, and donations related to the study of YOS effectiveness. This revenue is not subject to TABOR.

State Expenditures

The bill reduces General Fund expenditures in the DOC, as shown in Table 2. The bill also creates General Fund expenditures for the DOC, the OSPD, and the DHS, as shown in Table 3. On net, the bill will have no net impact on state expenditures, as increased spending in the agencies listed above is offset by expected savings on prison and parole.

Department of Corrections expenditure reductions. The bill's special needs parole provision will reduce the prison population, as shown in Table 2 and explained below. These impacts are estimates; the Parole Board will likely approve a different number of inmates for special needs parole eligibility. Out year impacts will be addressed through the prison population forecast and the annual budget process.

**Table 2
Prison and Parole Operating Impacts Under SB 21-146**

Fiscal Year	Prison ADP	Prison Total	Parole ADP	Parole Total	Grand Total
FY 2021-22	(134)	(\$3,130,100)	134	\$696,458	(\$2,433,642)
FY 2022-23	(135)	(\$3,153,376)	135	\$701,637	(\$2,451,739)

Special needs parole savings. Under the bill, 352 inmates would become eligible for special needs parole. This amount includes incapacitated inmates (41), inmates with serious impairments (272), who are at least 64 years old (27), or who have dementia (12). Table 2 reflects an assumed parole approval rate of 43 percent for this population, which is the midpoint between DOC recommendations as a share of total eligibility (17 percent) and Parole Board approvals as a share of DOC recommendations (69 percent). The out-year reduction shows the cumulative change in average daily population (ADP) compared to current law, and assumes that one additional inmate will become eligible for special needs parole in FY 2022-23.

Reductions in the prison population are assumed to reduce the number of private prison beds contracted by the state at an average rate of \$23,276 per bed per year. If the reductions in the state prison population instead occur at state facilities, cost reductions will be comparatively greater. If reductions instead occur in the jail backlog, cost reductions will be comparatively smaller.

Department of Corrections expenditure increases. Both the DOC and the Parole Board require expenditure increases under the bill, as shown in Table 3 and detailed below.

**Table 3
 Expenditure Impacts Under SB 21-146**

Cost Components	FY 2021-22	FY 2022-23
Department of Corrections		
Personal Services	\$234,020	\$255,295
Operating Expenses	\$5,700	\$5,600
Capital Outlay Costs	\$37,200	-
Basic Training	\$8,700	-
Legal Services	\$30,307	\$30,307
Computer Programming	\$229,220	-
Health Insurance Premium Payments	\$389,196	\$389,196
Work and Gain Education and Employment Skills Program	\$1,167,297	\$1,481,662
Centrally Appropriated Costs	\$85,574	\$89,499
FTE – Personal Services	3.8 FTE	4 FTE
FTE – Legal Services	0.2 FTE	0.2 FTE
DOC Subtotal	\$2,187,214	\$2,251,560
Office of the State Public Defender		
Personal Services	\$142,470	\$155,422
Operating Expenses	\$2,890	\$2,890
Capital Outlay Costs	\$12,400	-
Centrally Appropriated Costs	\$38,668	\$41,867
FTE – Personal Services	1.8 FTE	2 FTE
OSPD Subtotal	\$196,428	\$200,179
Department of Human Services		
Aging Commission Study	\$50,000	-
DHS Subtotal	\$50,000	-
Total	\$2,433,642	\$2,451,739
Total FTE	7.2 FTE	7.7 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

- **DOC Staff.** The DOC requires a total of 3.0 FTE, which includes 0.5 FTE Psychologist for competency assessments; 1.0 FTE Case Manager and 0.5 FTE Victims Services Liaison for additional special needs parole proceedings; and 0.5 FTE Community Program Specialist and 0.5 FTE Administrative Assistant to coordinate health insurance coverage. Costs include standard operating and capital outlay costs, as well as basic training. First-year costs are prorated for the General Fund pay date shift.

- **Parole Board Staff.** The Parole Board requires a total of 1.0 FTE Administrative Assistant to assist with additional special needs parole proceedings. Parole Board costs include standard operating, capital outlay, and basic training costs.
The fiscal note does not include Parole Board staff for unauthorized absence proceedings because it is assumed that file review will be acceptable for these 365 inmates in light of the bill's two-month processing window, and that many of these inmates are already parole-eligible pursuant to HB 20-1019.
- **Legal services.** Legal services are estimated at 285 hours annually, including 185 hours to address procedural and eligibility changes regarding special needs parole, and 100 hours to address health care coverage for inmates who at least 65 years old upon re-entry. Legal services are calculated at a rate of \$106.34 per hour, and are reappropriated to the Department of Law.
- **Computer programming.** The Office of Information Technology will make modifications the Parole Board Hearing Application and the Inmate Benefit Assistance Application Program to meet the bill's requirements related to parole and health insurance coverage. Costs assume 1,930 hours at an average rate of \$113 per hour and software costs of \$17,000. These costs will be reappropriated to the Office of Information Technology.
- **Health insurance premium payments.** Health insurance premiums will be required for approximately 137 inmates age 65+ leaving DOC each year. Premium costs are estimated at \$631 per individual, which represents the average monthly cost of Medicare Part A and B, at a total cost per month of \$86,488. The fiscal note assumes an average of 4.5 months of coverage per senior inmate in their first re-entry year. These costs will be readdressed once the Commission on the Aging makes its recommendations.
- **Work and Gain Education and Employment Skills (WAGEES) program.** The Latino Coalition for Community Leadership serves as the intermediary between the DOC and community partners by overseeing community partners; ensuring proper records maintenance and use of grant funding; and providing technical, administrative, and financial guidance. The coalition receives 15 percent of the funds appropriated to this program to cover its administrative costs, with the remaining amount going to community partners. As a result, it is expected that \$992,202 will go to community partners and \$175,095 will be used for administrative costs in FY 2021-22, and \$1,259,413 to community partners and \$222,249 for administrative costs in FY 2022-23.
- **Youth Offender System study.** If gifts, grants, and donations are received, the study of the Youthful Offender System is estimated to cost \$250,000. For simplicity and due to the fact that it is unknown if sufficient funding will be received, this cost has been excluded from the DOC cost estimate in this fiscal note. No appropriation is required to spend gift, grants, and donations.

Office of the State Public Defender. The OSPD requires 1.0 FTE Lead Deputy Public Defender and 1.0 FTE Legal Assistant to serve as a liaison support for the DOC and the Parole Board. Standard operating and capital outlay costs are included, as well as the annual attorney registration fee.

Department of Human Services. Based on studies of comparable scope, the Commission on Aging requires \$50,000 to conduct the study on health insurance enrollment for inmates who are 65 years of age or older upon release from prison.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Effective Date

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

State Appropriations

For FY 2021-22, the bill requires a net reduction in General Fund appropriations of \$332,002 to the Department of Corrections, which includes:

- a bed decrease of \$3,130,100;
- a parole increase of \$696,458; and
- an increase of \$2,101,640 and 3.8 FTE, of which \$30,307 and an additional 0.2 FTE is reappropriated to the Department of Law, and \$229,220 is reappropriated to the Office of Information Technology.

In addition, the following General Fund appropriations are also required in the bill:

- \$157,760 and 1.8 FTE to the Office of the State Public Defender in the Judicial Branch; and
- \$50,000 to the Department of Human Services.

State and Local Government Contacts

Corrections
Human Services
Law

Counties
Information Technology
Public Defender

Health Care Policy and Financing
Judicial
Public Safety