



Legislative Council Staff
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Revised Fiscal Note

(replaces fiscal note dated February 24, 2022)

Drafting Number:	LLS 22-0885	Date:	March 1, 2022
Prime Sponsors:	Rep. Weissman; Soper	Bill Status:	House Judiciary
		Fiscal Analyst:	Aaron Carpenter 303-866-4918 Aaron.Carpenter@state.co.us

Bill Topic: 2022 CRIMINAL & JUVENILE JUSTICE COMMN RECOMMENDATIONS

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
	<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill makes changes to the powers of probation officers, requires the Judicial Department to create a system of individualized behavioral responses, and makes changes to various crimes. The bill may increase state revenue and will impact state and local expenditures.

Appropriation Summary: The bill requires an appropriation of \$53,390 to the Judicial Department.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the House Judiciary Committee. It has also been updated to reflect new information.

**Table 1
State Fiscal Impacts Under HB 22-1257**

		Budget Year FY 2022-23	Out Year FY 2023-24
Revenue		-	-
Expenditures	General Fund	\$53,390	\$50,653
	Centrally Appropriated	\$11,022	\$11,388
	Total Expenditures	\$64,412	\$62,041
	Total FTE	0.7 FTE	0.7 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$8,008	\$7,598

Summary of Legislation

The bill makes certain modifications to sentencing reform provisions enacted through Senate Bill 21-271, which take effect March 1, 2022, primarily regarding previous felony offenders who are not permitted to possess a weapon. In addition, the bill modifies probation officer arrest authority, requires the probation division to use a system of individualized behavioral responses, and creates and modifies certain crimes, as detailed below.

Probation officers. Under current law, a probation officer may arrest a probationer when the officer has probable cause to believe that the probationer has committed a crime or when a probationer tests positive for a controlled substance. The bill removes these provisions. In addition, the bill requires a probation officer to issue a summons, instead of a warrant, when petitioning for revocation of probation unless it is believed the probationer would not appear, would interfere with the criminal justice process, or pose substantial risk or serious harm to others. The bill requires certain information to be included in a complaint alleging a violation of probation. When a probationer tests positive for a controlled substance, the bill requires the use of individualized behavioral responses. Finally, the bill establishes the purpose of probation.

Individualized behavioral response. The bill requires the State Court Administrator to develop a system of structured and individualized behavioral responses to guide probation officers in determining how best to motivate positive behavior change and the appropriate response to a violation. The bill outlines what needs to be included in the responses and requires the Probation Division to use the system or develop and use an equivalent and locally developed system. Finally, the Department of Corrections (DOC), the Judicial Department, and the Department of Public Safety must collaborate to develop and implement a range of structured and individualized behavioral responses for offenders under their jurisdiction.

Use of DOC facilities for parolee sanctions. Under current law, when a parolee has a technical violation of parole, a brief period of confinement in a county jail may be imposed as a sanction. The bill removes "county jail," allowing the confinement to also be served in a DOC facility.

Intentionally practicing a regulated profession. The bill makes it a class 6 felony to intentionally practice the following professions without a license: architect, anesthesiologist assistant, audiologist, dentist, doctor, engineer, direct entry midwife, nurse, nursing home administrator, pharmacist, pharmacist technician, physician assistant, optometrist, or respiratory therapist.

Public benefit theft. When determining a public benefit theft offense level, the value is the difference between the value of the public benefit received and the value of the public benefit for which the recipient was eligible.

Possession of weapons by previous offender. Until March 1, 2022, an individual who is convicted of a felony cannot possess a firearm. Starting March 1, 2022, individuals convicted of felonies subject to the Victim Rights Act cannot possess a firearm. The bill adds back additional felony offenses to the convictions that prohibit a person from possessing a firearm. In addition, the bill allows these felony offenders to petition the court to possess a firearm after their sentence is completed if the offender has good cause for carrying the firearm.

Comparable Crime Analysis and Assumptions

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 creates a new factual basis for an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions resulting from the bill.

- **Intentionally practicing a regulated occupation without a license.** This bill creates the new crime of intentionally practicing a regulated occupation without a license, a class 6 felony. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of unauthorized practice of a regulated profession as a comparable crime. From FY 2018-19 to FY 2020-21, 4 individuals have been convicted and sentenced for this offense. Of the persons convicted, 1 was male and 3 were female. Demographically, 2 were White and 2 were Asian. The fiscal note assumes that professionals will comply with the law, and that any increase in sentencing will be minimal.
- **Public benefit theft.** This bill creates a new factual basis for the existing offense of theft by subtracting the value of the public benefit stolen by the amount the individual was eligible to receive. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of fraudulent acts to obtain food stamps or an electronic benefits transfer card as a comparable crime. From FY 2018-19 to FY 2020-21, 23 individuals have been convicted and sentenced for this offense. Of the persons convicted, 4 were male, 18 were female, and 1 did not have a gender identified. Demographically, 18 were White, 1 was Black/African American, and 4 were classified as "Other." The subtraction of the benefit a person was eligible for when convicted for public benefits theft may reduce sentences; however, due to the low instances of the comparable crime, the fiscal note assumes that any impact will be minimal.
- **Possession of a firearm by a previous offender.** This bill creates a new factual basis for the existing offense of possession of a firearm by a previous offender by increasing the number of crimes that make a person ineligible to possess a firearm after March 1, 2022. Because this modification is expected to occur within days from the effective date of these Senate Bill 21-271 provisions, the fiscal note assumes any impact will be minimal. For informational purposes, from FY 2018-19 to FY 2020-21, 2,105 individuals have been convicted and sentenced for this offense. Of the persons convicted, 1,968 were male, 135 were female, and 2 did not have a gender identified. Demographically, 1,508 were White, 433 were Black/African American, 131 were Hispanic, 13 were Asian, 8 were American Indian, 11 were classified as "Other," and 1 did not have a race identified.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

In future fiscal years, the bill may minimally increase revenue to the trial courts from filing fees from individuals petitioning the court to be eligible to possess firearms. This revenue is subject to TABOR.

State Expenditures

The bill increases state expenditures in the Probation Division of the Judicial Department by \$64,412 in FY 2022-23 and \$62,041 in FY 2023-24 from the General Fund. Workload will also increase for the trial courts and the State Court Administrator Office. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 22-1257

	FY 2022-23	FY 2023-24
Probation Division (Judicial Department)		
Personal Services	\$44,715	\$48,778
Operating Expenses	\$1,475	\$1,475
Capital Outlay Costs	\$7,200	\$400
Centrally Appropriated Costs ¹	\$11,022	\$11,388
Total Cost	\$64,412	\$62,041
Total FTE	0.7 FTE	0.7 FTE

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

Probation. Starting in FY 2022-23, the Probation Division will require 0.7 FTE to supervise additional offenders sentenced to probation. Based on the division's data, the fiscal note assumes that, by returning additional offenses to the statute concerning possession of a firearm by a previous offender, 29 more individuals will be sentenced to probation than under current law. This will require 0.5 FTE probation officer plus 0.1 FTE supervisor and 0.1 FTE support staff. Costs reflect the General Fund pay date shift.

Trial courts. The bill will increase workload to the trial courts in two ways. First, court workload may increase if there are additional or longer trials and sentences for crimes created or modified by the bill, and may decrease if there are shorter trials due to the bill's modification to public benefit theft amounts. In addition, in future fiscal years, workload to the trial courts will increase to hear petitions to allow individuals to possess a firearm if they were adjudicated to a felony that would not allow them to possess a firearm. Assuming each case takes 30 minutes, this workload can be absorbed within current appropriations.

State Court Administrator. The State Court Administrator has already developed a system of structured and individualized behavioral responses as required by the bill. Workload will minimally increase for the office to train probation officers on the system.

Local Government

Similar to the state, the bill may impact workload and costs for district attorneys. This impact is expected to be minimal. District attorney offices are funded by counties, with each county in a judicial district contributing based on its population.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. Sections concerning intentionally practicing a profession, public benefit theft, and possession of a firearm by a previous offender (Sections 1, 10, and 11) apply to offenses committed on or after that date.

State Appropriations

For FY 2022-23, the bill requires an appropriation of \$53,390 and 0.7 FTE from the General Fund to the Judicial Department.

State and Local Government Contacts

Corrections
Judicial

District Attorneys
Public Safety

Information Technology
Regulatory Agencies