



## Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

# Revised Fiscal Note

(replaces fiscal note dated January 20, 2023)

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<b>Drafting Number:</b>	LLS 23-0403	<b>Date:</b>	April 27, 2023
<b>Prime Sponsors:</b>	Sen. Hinrichsen Rep. Bird	<b>Bill Status:</b>	House Appropriations
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**Bill Topic:** **POSSESSION OF WEAPON BY PREVIOUS OFFENDER CRIMES**

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<b>Summary of Fiscal Impact:</b>	<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 adds aggravated motor vehicle theft under certain circumstances to the list of crimes that constitute the crime of possession of a weapon by a previous offender. Starting in FY 2023-24, state revenue and expenditures, and local expenditures, will increase on an ongoing basis.

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**Appropriation Summary:** No appropriation is required.

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

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## Summary of Legislation

Under current law, it is a class 5 felony if a previous offender of certain felonies possesses, uses, or carries a weapon. The bill adds aggravated motor vehicle theft when the threat committed with a deadly weapon or deadly force or the person used the vehicle in connection with the commission of a crime of violence. It does not include authorized use of the vehicle or other nonviolent activities to list of crimes that prohibits previous offenders from possessing a weapon.

## Background

In 2021, the Colorado General Assembly passed [Senate Bill 21-271](#) which reclassified a number of misdemeanors and other crimes starting on March 1, 2022. As part of the reclassification, the bill made possession of a weapon by a previous offender (POWPO) a class 5 felony and removed a number of crimes that prohibited a previous offender from possessing a firearm. In 2022, the General Assembly passed [House Bill 22-1257](#), which added back certain felony convictions that prohibit a person from possessing a firearm.

## **Comparable Crime Analysis**

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.

**Prior conviction data.** This bill creates a new factual basis for the existing offense of possession of a weapon by a previous offender by adding the crime of aggravated motor vehicle theft to the list of crimes that prohibit a felony offender from possessing a firearm. From FY 2019-20 to FY 2021-22, 2,719 individuals have been convicted and sentenced for POWPO offenses. Of the persons convicted, 2,570 were male, 145 were female, and 4 did not have a gender identified. Demographically, 1,928 were White, 571 were Black/African American, 161 were Hispanic, 15 were Asian, 21 were American Indian, 20 were classified as "Other," and 3 did not have a race identified.

**Assumptions.** The fiscal note assumes that if the above circumstances are met, most individuals are charged with another crime that makes them subject to POWPO; therefore, any increase in cases where just aggravated motor vehicle theft results in a person being subject to POWPO will be minimal.

Visit [leg.colorado.gov/fiscalnotes](https://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

**Criminal fines and court fees.** By modifying an existing felony offense, the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2023-24, credited to the Fines Collection Cash Fund, various other cash funds in the Judicial Department, and the General Fund. The fine penalty for a class 5 felony is \$1,000 to \$100,000. Additionally, court fees may be imposed on a case-by-case basis for a variety of court-related costs, such as probation supervision, drug surcharges, or late fees. Because the courts have the discretion of incarceration, imposing a fine, or both, a precise state revenue impact cannot be determined. Criminal fine and court fee revenue is subject to TABOR.

## **State Expenditures**

Beginning in FY 2023-24, this bill increases workload and costs in the Judicial Department. It may also increase state General Fund expenditures in the Department of Corrections, as discussed below.

**Judicial Department.** This bill increases workload and costs for the trial courts in the Judicial Department to process additional criminal case filings. To the extent that offenders are sentenced to probation, workload and costs in the Division of Probation will increase. Workload and costs may increase in the agencies that provide representation to indigent persons, including the Office of the State Public Defender and the Office of Alternate Defense Counsel. Overall, it is assumed these impacts can be accomplished within existing appropriations. Should a change in funding be required for any agency or division with the Judicial Department, the fiscal note assumes this will be addressed through the annual budget process.

**Department of Corrections.** To the extent that this bill increases the number of persons sentenced to prison for POWPO, costs will increase. However, at this time it is assumed that the likelihood of persons being sentenced to the custody of the DOC is minimal. Any increase in costs will be addressed through the annual budget process, if necessary.

## **Local Government**

**District attorneys.** By changing the elements of POWPO, the bill will increase workload and costs for district attorneys to prosecute these cases. The exact impact to a particular local government will vary depending on the number of offenses committed within its jurisdiction. 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.

## **State and Local Government Contacts**

Corrections  
Judicial

District Attorneys  
Public Safety

Information Technology