



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 24-0215	Date:	February 12, 2024
Prime Sponsors:	Rep. Armagost; Snyder	Bill Status:	House Judiciary
		Fiscal Analyst:	Clayton Mayfield 303-866-5851 clayton.mayfield@coleg.gov

Bill Topic: PENALTY FOR THEFT OF FIREARMS

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

The bill makes theft of a firearm a class 6 felony, or a class 5 felony under certain circumstances. Starting in FY 2024-25, the bill increases state revenue and expenditures and increases local workload on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$473,074 to the Judicial Department.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 24-1162

		Budget Year FY 2024-25	Out Year FY 2025-26
Revenue		-	-
Expenditures	General Fund	\$473,074	\$1,008,664
	Centrally Appropriated	\$77,746	\$77,746
	Total Expenditures	\$550,820	\$1,086,410
	Total FTE	3.6 FTE	3.6 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$70,961	\$151,300

Summary of Legislation

Under current law, the crime of theft carries penalties ranging from a petty offense to a class 2 felony depending on the value of the item stolen. The bill makes theft of a firearm a class 6 felony regardless of value. Additionally, the bill makes subsequent firearm thefts a class 5 felony, and if more than one firearm is stolen in a single instance, each additional firearm theft is a class 5 felony.

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 section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior conviction data. This bill reclassifies the existing offense of theft by making theft of a firearm a class 6 felony. To form an estimate on the prevalence of this new classification, the fiscal note analyzed the existing offense of second degree burglary of a firearm, a class 3 felony, as a comparable crime. From FY 2020-21 to FY 2022-23, 35 persons have been convicted and sentenced for class 3 felony burglary of a firearm. Of the persons convicted, 30 were male, 4 were female, and 1 did not have a gender identified. Demographically, 27 were White, 5 were Black/African American, 2 were American Indian, and 1 did not have a race identified.

Assumptions. Under current law, theft offenses are based on the value of items stolen, not which items, except for thefts involving motor vehicles. The comparable crime analysis shows the prevalence of second degree burglary of a firearm because this is the only property crime where firearms are specifically tracked.

However, additional data are available to inform this analysis.¹ Between 2017 and 2021, there were an average of 3,330 firearm thefts per year from private parties in Colorado reported by local law enforcement to the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC). In that same time period, an average of 870 firearms were recovered per year. This analysis assumes that 70 percent of these annual stolen firearm recoveries in Colorado (609) will result in charges filed as class 6 felonies under the bill.

Under current law, theft is a class 6 felony if the value of the item is at least \$2,000. Because most firearm theft incidents involve a single firearm, and most stolen firearms are pistols valued at less than \$2,000, this analysis assumes that 85 percent of charges that will be filed under the bill are currently charged as misdemeanors.

¹ National Firearms Commerce and Trafficking Assessment (NFCTA): Crime Guns - Volume Two – Part V – Firearm Thefts: <https://www.atf.gov/firearms/docs/report/nfcta-volume-ii-part-v-firearm-thefts/download>.

Therefore, by modifying a misdemeanor crime to a felony crime, the bill is assumed to generate an additional 518 felony cases in the district courts of the Judicial Department, and a reduction of the same amount of cases in the county courts. One county court judge can process 2,708 misdemeanor cases per year and one district court judge can process 468 felony cases per year, which results in a net change of 0.9 FTE additional district court magistrate. Per Judicial Department common policies, each magistrate requires support staff at a 3:1 ratio.

In addition, this analysis assumes that at least one-third of cases (173) will be sentenced to either probation or the Department of Corrections (DOC). Assuming 10 percent are sentenced to DOC, this results in 17 class 6 felony sentences to DOC per year. The average length of stay in the DOC for a class 6 felony is about 9 months, and the average length of stay on parole is about 10 months.

For the Division of Probation in the Judicial Department, the impact of the remaining 156 cases assumed to be sentenced to probation after the DOC sentences are subtracted out is mitigated because misdemeanor charges already carry probation sentences. The primary impact to the division under the bill will result from additional workload for pre-sentence investigations and from moving probation sentences from Denver County Court (which is funded locally) to the Denver District Court (which is state-funded).

State Revenue

Criminal fines and court fees. By creating a new felony offense, the bill will increase state revenue from criminal fines and court fees by a minimal amount beginning in FY 2024-25, 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 6 felony ranges from \$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

The bill increases state expenditures in the Judicial Department and the DOC by about \$551,000 in FY 2024-25, and by about \$1.1 million in FY 2025-26 and beyond, paid from the General Fund. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 24-1162**

	FY 2024-25	FY 2025-26
Judicial Department		
Personal Services	\$359,757	\$359,757
Operating Expenses	\$9,028	\$9,028
Capital Outlay Costs	\$104,289	\$1,600
Centrally Appropriated Costs ¹	\$77,746	\$77,746
FTE – Personal Services	3.6 FTE	3.6 FTE
Judicial Subtotal	\$550,820	\$448,132
Department of Corrections (See Table 3)		
Bed Impact	-	\$299,592
Parole Impact	-	\$338,686
DOC Subtotal	-	\$638,279
Total	\$550,820	\$1,086,410
Total FTE	3.6 FTE	3.6 FTE

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

Judicial Department. Starting in FY 2024-25, costs in the Judicial Department will increase as shown in Table 2 to hire additional staff, based on the assumptions outlined above.

- District courts.** Starting in FY 2024-25, the trial courts require 3.6 FTE, including 0.9 FTE magistrate and support staff at a 3:1 ratio (2.7 FTE). Staffing costs include standard operating expenses and capital outlay costs. In addition, pursuant to Judicial Department common policies, magistrates also require \$77,609 in additional capital outlay to outfit a courtroom and chambers and an additional \$4,420 in operating for robe cleaning, law library, and travel costs. First-year costs assume a July 1, 2024, start date.
- Division of Probation.** Starting in FY 2024-25, workload to the Probation Division will be impacted in two ways. First, work will increase to conduct additional pre-sentence investigation reports and to supervise any offenders that were under the supervision of Denver County Court and will now be under the supervision of Denver District Court. Second, any offenses that are now sentenced to the DOC instead of probation will reduce workload to the division. The fiscal note assumes based on the current percentages of pre-sentence investigation, the percentage of probation cases in Denver, and an assumed DOC sentence rate increase of 10 percent, the overall impact of workload increases and decreases is neutralized; therefore, no change in appropriations is required.

Department of Corrections. Section 2-2-701, C.R.S., requires Legislative Council Staff to provide information to the General Assembly on long-term costs for prison capital construction, operations, and parole for any bill that potentially increases periods of imprisonment in the Department of Corrections. These impacts are described below.

- **Department of Corrections prison and parole costs (five-year fiscal impact).** Based on the assumptions provided in the Comparable Crime Analysis section, this bill increases prison operating costs for the DOC by a total of \$1.6 million over the five-year period beginning in FY 2024-25. The fiscal note assumes no prison operating impacts will occur in the first year due to the amount of time required for criminal filing, trial, disposition and sentencing of each case. Once an offender is released from prison, they are assigned to parole. The parole impact is assumed to first occur in FY 2025-26. Table 3 shows the estimated cost of the bill over the next five fiscal years.

**Table 3
Prison and Parole Operating Costs Under HB 24-1162**

Fiscal Year	Prison ADP Impact	Prison Cost	Parole ADP Impact	Parole Cost	Total Costs
FY 2024-25	-	-	-	-	-
FY 2025-26	12.34	\$299,592	4.66	\$39,094	\$338,686
FY 2026-27	12.34	\$299,592	13.74	\$115,261	\$414,853
FY 2027-28	12.34	\$299,592	13.74	\$115,261	\$414,853
FY 2028-29	12.34	\$299,592	13.74	\$115,261	\$414,853
				Total	\$1,583,247

¹ ADP stands for Average Daily Population.

- **Department of Corrections capital construction costs.** In addition to the five-year operating and parole impacts discussed above, Section 2-2-703, C.R.S., requires that the General Assembly consider increased capital construction costs for the DOC to house additional inmates. Based on the average per bed construction costs of previous prison facilities, capital construction costs of \$2.2 million would be required to increase prison bed space in line with the estimated increase in prison population under this bill. If the General Assembly determines that additional prison bed space is needed, this bill should include a transfer of General Fund to the Capital Construction Fund, to be reappropriated to the Corrections Expansion Reserve Fund. Money in the Corrections Expansion Reserve Fund is available for future DOC construction projects, which would be identified and funded through the annual budget process based on the state's overall prison needs.

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 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Local Government

Similar to the state, district attorney offices will experience an increase in workload to charge and prosecute additional felony cases created by the bill. The exact impact will vary by jurisdiction. In addition, workload to the Denver County Court will decrease from the misdemeanor cases that move to district court under the bill.

Effective Date

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

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$473,074 to the Judicial Department, and 3.6 FTE.

Departmental Difference

The Judicial Department estimates the bill will cost an additional \$94,500 in FY 2024-25 and \$101,000 in FY 2025-26 to cover the cost of additional probation officers. This cost is based on the assumption that there will be 611 additional cases that are sentenced to probation under the bill. The fiscal note assumes only 156 cases will reach the Division of Probation under the bill, and that in most cases these are already managed by the division as misdemeanor offenses.

State and Local Government Contacts

Corrections

District Attorneys

Judicial

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).