

  
*Colorado Legislative Council Staff Fiscal Note*  
**STATE**  
**FISCAL IMPACT**

**Note: This fiscal note is provided pursuant under Joint Rule 22 (b) (2) and reflects strike-below Amendment L.002.**

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<b>Drafting Number:</b> LLS 12-0752	<b>Date:</b> February 21, 2012
<b>Prime Sponsor(s):</b> Rep. Fields Sen. King S.	<b>Bill Status:</b> House Judiciary <b>Fiscal Analyst:</b> Hillary Smith (303-866-3277)

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**TITLE:** CONCERNING THE PENALTY FOR A PERSON WHO ESCAPES FROM A PLACE OF CONFINEMENT OTHER THAN A COUNTY JAIL OR CORRECTIONAL FACILITY.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures General Fund	Future savings beginning in FY 2016-17	
FTE Position Change		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> None. The Office of the State Public Defender will have a slightly decreased workload, but it is unclear at the time of writing whether the decrease will reduce appropriations. The Department of Corrections will not experience a cost savings until FY 2016-17.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

Under current law, persons who are convicted of a certain number of felonies over a designated time period are judged as habitual criminals and face enhanced sentencing penalties. This bill, **with strike-below amendment L.002**, exempts a person who is convicted of felony escape or attempt to escape from a place other than a county jail or a correctional facility from being designated a habitual criminal. Examples of such places include community corrections and the Division of Youth Corrections. The bill applies to escape crimes that occur on or after the effective date of the bill.

This fiscal note assumes that as currently drafted, the bill will only exempt individuals from being designated a habitual criminal at the time of sentencing for specified escape crimes. Previous convictions for escape crimes, even ones that occur after the effective date of the bill, would still count as prior felonies that could lead to designation as a habitual criminal.

**Background**

***Enhanced sentencing for habitual criminals.*** A person convicted of any class 1, 2, 3, 4, or 5 felony who has been convicted of two felonies within the previous ten years is considered a habitual criminal and must be sentenced for a term of three times the maximum of the presumptive sentencing range for the felony. In addition, a person convicted of any felony who has been previously convicted of three or more felonies within any time frame is also considered a habitual criminal and must be sentenced for a term of four times the maximum of the presumptive sentencing range for the felony.

***Felony escape and attempt to escape.*** Table 1 summarizes the different penalty level of the offenses of escape and attempt to escape affected by the HB12-1213. The classifications depend on the type of offense for which the escapee was confined, held, or charged.

<b>Table 1. Classifications of Escape and Attempt to Escape Offenses Affected by HB12-1213</b>			
<i>Offense</i>	<i>Type of Offense</i>	<i>Classification</i>	<i>Sentencing Scheme</i>
Escape	Knowingly escaping from custody or confinement following conviction of a class 1 or 2 felony.	Class 2 felony	<ul style="list-style-type: none"> <li>• 8 - 24 years in prison; and/or</li> <li>• \$5,000 - \$1 million fine</li> </ul>
	Knowingly escaping from custody or confinement following conviction of a class 3, 4, 5, or 6 felony.	Class 3 felony	<ul style="list-style-type: none"> <li>• 4 - 12 years in prison; and/or</li> <li>• \$3,000 - \$750,000 fine</li> </ul>
	Knowingly escaping from custody or confinement while being held for or charged with but not convicted of any felony.	Class 4 felony	<ul style="list-style-type: none"> <li>• 2 - 6 years in prison; and/or</li> <li>• \$2,000 - \$5,000 fine</li> </ul>
Attempt to Escape	Knowingly attempting to escape from custody or confinement following conviction of any felony.	Class 4 felony	<ul style="list-style-type: none"> <li>• 2 - 6 years in prison; and/or</li> <li>• \$2,000 - \$5,000 fine</li> </ul>
	Knowingly attempting to escape from custody or confinement within a community corrections program following a direct sentence to such a program after conviction of any felony.	Class 5 felony	<ul style="list-style-type: none"> <li>• 1 - 3 years in prison; and/or</li> <li>• \$1,000 - \$100,000 fine</li> </ul>
	Knowingly attempting to escape from custody or confinement within an intensive supervision parole following placement in such a program after conviction of any felony.	Class 5 felony	<ul style="list-style-type: none"> <li>• 1 - 3 years in prison; and/or</li> <li>• \$1,000 - \$100,000 fine</li> </ul>

<b>Table 1. Classifications of Escape and Attempt to Escape Offenses Affected by HB12-1213</b>			
	Knowingly attempting to escape from custody or confinement while being held for or charged with but not convicted of any felony.	Class 5 felony	<ul style="list-style-type: none"> <li>• 1 - 3 years in prison; and/or</li> <li>• \$1,000 - \$100,000 fine</li> </ul>

**State Expenditures**

*Department of Corrections.* Beginning in FY 2016-17, the Department of Corrections will experience decreased costs resulting from changes in the length of prison sentences. Table 2 shows the estimated impact of the bill over the next five fiscal years. The bed impact is based on historical conviction rates for escape crimes affected by the bill. The fiscal note assumes that two offenders will spend an average of 7 fewer years in prison. Operating costs are based on an annual rate of \$20,707 per inmate.

<b>Table 2. Five-Year Fiscal Impact On Correctional Facilities</b>				
<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
FY 2012-13	0.0	\$0	\$0	\$0
FY 2013-14	0.0	-	-	-
FY 2014-15	0.0	-	-	-
FY 2015-16	0.0	-	-	-
FY 2016-17	(2.0)	-	(\$41,414)	(\$41,414)
<b>Total</b>	(2.0)	\$0	(\$41,414)	(\$41,414)

The fiscal note assumes that any cost savings from the bill will not occur until FY 2016-17 because offenders will still be sentenced for the offense of escape or attempt to escape, even if they are no longer subject to enhanced sentencing under the habitual offender statute. Furthermore, the fiscal note assumes that offenders with prior felonies will be sentenced to the maximum of the presumptive range for the escape crime that they are convicted of (at least 3 years, and up to 12 years). If such offenders are sentenced to a term that is less than the maximum, savings could occur earlier.

*Judicial Branch and the Office of the State Public Defender.* The bill will have no impact on courts, because the number of criminal case filings as a result of escape will remain the same. The Office of the State Public Defender may have a slightly decreased workload because cases with enhanced sentencing require more work to defend, and such cases will be reduced by the bill. As of this writing, data concerning the exact number of cases affected by the bill is not available. An estimate of the potential impact of the bill to the Office of the State Public Defender will be provided in a revised note.

*Department of Human Services.* The bill is unlikely to impact the Department of Human Services. Juvenile offenders who are serving time in the Division of Youth Corrections for multiple felonies will most likely not be discharged until they are 21, regardless of changes to the habitual offender statute.

**Departments Contacted**

Colorado Counties, Inc.  
Judicial  
Public Safety

Corrections  
Human Services  
Sheriffs

District Attorneys  
Law