

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 15-0602  
**Prime Sponsor(s):** Sen. Merrifield  
Rep. Lee

**Date:** February 10, 2015  
**Bill Status:** Senate Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**BILL TOPIC:** REDUCE PAROLE REVOCATIONS FOR TECHNICAL VIOLATIONS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures General Fund	<b>up to (\$2,742,394)</b> up to (\$2,742,394)	<b>up to (\$2,991,703)</b> up to (\$2,991,703)
FTE Position Change		
<b>Appropriation Required:</b> up to (\$2,742,394) - Department of Corrections (FY 2015-16).		

\* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a reduction in funding.

**Note:** While all agencies were canvassed for this fiscal note, not all agencies responded with complete information. Therefore, this fiscal note should be considered preliminary; it will be updated if new information becomes available.

**Summary of Legislation**

This bill clarifies and narrows the scope of behavior that warrants arresting a parolee for a technical violation. Specifically, prior to arresting a parolee, a parole officer must have:

- probable cause to believe that a parolee has violated one or more conditions of parole and that he or she will fail or refuse to appear before the Parole Board;
- a reasonable belief that an arrest is necessary to prevent serious bodily injury to the parolee or another person or to prevent the commission of a crime; or
- probable cause to believe the parolee has committed a technical violation that is not a criminal offense, but the parole officer has exhausted all other appropriate or available intermediate sanctions.

**Intermediate sanctions.** A parole officer is required to use intermediate sanctions to address noncompliance by a parolee in a manner consistent with the severity of the behavior and the risk level of the parolee, including referrals to treatment and support services. If a parolee has two or more violations within 90 days, the parole officer, with approval from the director of the Division of Adult Parole, may impose a term of confinement in a county jail not to exceed five days as an intermediate sanction at the state's cost.

**Revocation proceedings.** The bill clarifies that a parolee who refuses to submit to chemical testing is deemed to have a positive test result for the purposes of revocation proceedings. In addition, the parole officer may begin revocation proceedings without seeking intermediate sanctions when a parolee has received four or more intermediate sanctions committing him or her to a brief term in jail, or when the nature of the violation and the parolee's criminal history indicate a heightened risk to public safety.

**Reporting.** On or before January 1, 2016, and each January 1 thereafter, the Division of Adult Parole is required to report to the Judiciary Committees of the General Assembly about the effect of SB15-124 on parole outcomes and the use of state funds.

## **Background**

Between July 1, 2013, and January 31, 2015, there were 6,257 parolees returned to prison on a technical violation. This includes about 320 parolees participating in the Swift and Sure pilot program.

In mid-September 2014, the Department of Corrections implemented the Swift and Sure pilot program, which imposes short time jail sanctions (up to three days) in lieu of revocation and makes referrals for cognitive behavioral therapy. The program is offered in Fremont, El Paso, and Pueblo counties. As of this writing and due to the short period of time the pilot has been operating, no information about outcomes is available, except that the department has identified 52 parolees returned directly to prison and notes that about 15 percent of the remaining participants will have been returned to prison.

For FY 2013-14, the department's average treatment costs per parolee receiving treatment was \$362.02 for mental health services, \$862.18 for sex offender treatment, and \$312.30 for substance abuse treatment.

According to the DOC, the Adams, Arapahoe, Boulder, Denver, and Jefferson County jails currently operate at or near capacity and currently turn away parolees arrested for technical parole violations who must then be transported to other counties.

## **State Expenditures**

**Overall, this bill is anticipated to decrease state expenditures by up to \$3.0 million per year.**

**Assumptions.** The fiscal note relies on the following preliminary assumptions:

- revocations to prison for a technical violation currently result in a return to prison for an average length of stay (LOS) of 120 days;
- costs for treatment services provided to parolees are already included in the DOC budget and are not additional to this bill;
- for the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates, and housing a revoked parolee costs the DOC about \$60.46 per day, per inmate;
- among the average of 4,000 parolees per year that are currently returning to prison, at least 50 percent will continue to return to prison immediately due to the severity of the offense or lack of available bed space and result in no cost savings (group one);
- up to 15 percent will be incarcerated in a county jail for a maximum of 15 days as an intermediary sanction and not be returned to the DOC, resulting a cost savings (group two);
- up to 15 percent will be incarcerated in a county jail for a maximum of 15 days as an intermediate sanction and still be returned to the DOC for an additional 120 days, resulting in an increase in costs (group three);

- up to 20 percent will be incarcerated in a county jail for a maximum of 15 days and be returned to the DOC, but have the jail sentence credited towards the 120 day prison stay, resulting in a reduction of costs (group four); and
- first year costs and savings are prorated to 11 months for the effective date of the bill.

Table 1 shows the potential expenditures and cost savings by category of parolee.

<b>Table 1. Expenditures and Cost Savings Under SB15-124</b>		
<b>Cost Components</b>	<b>FY 2015-16</b>	<b>FY 2016-17</b>
Group One: 2,027 parolees	no change	no change
Group Two: Cost of \$791.10 (15 days at \$52.74) less savings of \$6,348.30 (105 days at \$60.46) for 608 parolees	up to (\$3,097,213)	up to (\$3,378,778)
Group Three: Cost of \$791.10 (15 days at \$52.74) for 608 parolees. Current LOS in DOC is assumed, so no change for 120 days at DOC and these costs are additional.	up to \$440,907	up to \$480,989
Group Four: Cost of 15 days at \$52.74 for the daily jail rate less the DOC daily rate of \$60.46 per inmate (15 days at a reduction of \$7.72 per day, per inmate for 811 inmates).	up to (\$86,088)	up to (\$93,914)
<b>TOTAL</b>	<b>up to (\$2,742,394)</b>	<b>up to (\$2,991,703)</b>

### **Local Government Impact**

This bill will increase revenue and costs for county jails that choose to contract with the Department of Corrections to house state parolees who would have otherwise been returned to prison. For the current fiscal year, the state reimburses county jails at a daily rate of \$52.74 to house state inmates.

### **Effective Date**

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

### **State Appropriations**

For FY 2015-16, the Department of Corrections requires a reduced appropriation of up to \$2,742,394 General Fund.

### **State and Local Government Contacts**

Corrections

Counties

Judicial

Sheriffs