



### **State Revenue**

Beginning in FY 2015-16, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 2 drug felony is \$3,000 to \$750,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the precise impact to state revenue cannot be determined. However, based on the low number of fines imposed in 2014, the fiscal note assumes that any revenue generated is likely to be less than \$5,000.

### **TABOR Impact**

This bill may increase state revenue from criminal fines, which will increase the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

### **State Expenditures**

Beginning in FY 2015-16, this bill will increase workload and costs for Judicial Department agencies, including trial courts and the Office of the State Public Defender, or the Office of the Alternate Defense Counsel, to hear any new cases. The fiscal note assumes that the increase in workload is minimal and will not require an increase in appropriations for any of these agencies because it is likely that the conduct that is prohibited by HB15-1305 will accompany other charges, such as property damage, explosions, fires, and injuries that are currently subject to prosecution. However, the fiscal note assumes that at least one person every five years will be sentenced to the Department of Corrections for unlawfully manufacturing marijuana concentrate or be given a consecutive sentence to another charge, such as arson or criminal mischief.

### **Five-Year Fiscal Impact on Correctional Facilities**

This bill is anticipated to increase state General Fund expenditures by an estimated \$55,170 between FY 2015-16 and FY 2019-20 for the Department of Corrections (DOC). This increase assumes at least one offender will be sentenced to prison for a class 2 drug felony every five years and have an average length of stay of 30.0 months. Should additional convictions occur, the fiscal note assumes the Department of Corrections will request additional appropriations through the annual budget process.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$60.46 per offender per day, including the current daily rate of \$55.08 and an estimated \$5.38 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 1 shows the estimated cost of the bill over the next five fiscal years.

<b>Table 1. 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 2015-16	0.0	\$0	\$0	\$0
FY 2016-17	1.0	\$0	\$22,068	\$22,068
FY 2017-18	1.0	\$0	\$22,068	\$22,068
FY 2018-19	0.5	\$0	\$11,034	\$11,034
FY 2019-20	0.0	\$0	\$0	\$0
<b>Total</b>				<b>\$55,170</b>

**Local Government Impact**

This bill will increase workload and costs for district attorneys that investigate and prosecute offenses under the bill. The fiscal note assumes that these increases will be minimal.

**Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., 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 changes an element of the existing crime that creates a new factual basis for the offense. As described above, depending on the context of the crime, an offender who is prosecuted for unlawfully manufacturing marijuana concentrate could be charged with a variety of offenses including arson, criminal mischief, and menacing, among others. No convictions under the current class 3 drug felony prohibition have occurred. For this reason, no information about the gender or minority status of offenders are available.

**Effective Date**

The bill takes effect and applies to offenses committed on or after July 1, 2015.

**State Appropriations**

The Department of Corrections requires the five-year General Fund appropriations shown in Table 1.

**State and Local Government Contacts**

Corrections  
Judicial  
Public Safety

Counties  
Municipalities  
Revenue

District Attorneys  
Public Health and Environment