



**Colorado
Legislative
Council
Staff**

SB16-051

**REVISED
FISCAL NOTE**

(replaces fiscal note dated January 25, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0745	Date: February 24, 2016
Prime Sponsor(s): Sen. Johnston; Lundberg Rep. Melton	Bill Status: House Judiciary
	Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: JUDGE'S DISCRETION REGARDING CONSECUTIVE SENTENCES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue		
State Expenditures General Fund	Potential future reduction — see State Expenditures section.	
Appropriation Required: None.		
Future Year Impacts: Potential future reduction in state expenditures.		

Summary of Legislation

This *reengrossed* bill removes the requirement that a person convicted of two or more separate, specified crimes of violence arising out of the same incident be sentenced to serve prison terms consecutively rather than concurrently. This applies when one of the crimes is aggravated robbery, assault in the second degree, or escape.

Background

Crimes of violence. A crime of violence means any crime committed, conspired to be committed, or attempted to be committed by a person who used or possessed and threatened to use a deadly weapon or caused serious bodily injury or death to another person not participating in the crime. Crimes of violence are subject to enhanced criminal penalties. With certain exceptions, these penalties are generally sentenced at the midpoint and up to twice the maximum of the presumptive range for the felony class. The following crimes are classified as crimes of violence:

- any crime against an at-risk adult or at-risk juvenile;
- murder;
- first or second degree assault;
- kidnapping;
- specified sexual offenses;
- first degree arson;
- first degree burglary;
- escape;
- criminal extortion; or
- first or second degree unlawful termination of pregnancy.

Data sample. In 2014, there were 107 offenders given consecutive sentences. Table 1 below shows the distribution of these convictions with sentencing ranges. The fiscal note assumes on average, about 20-25 cases per year meet the criteria for the change under SB16-051.

Table 1. 2014 Crimes of Violence Convictions				
Offense Type	Number of Cases	Minimum sentencing range for affected cases	Average number of years sentenced for affected cases*	Number of Life Sentences and Life without Parole Sentences
Sexual Assault	41	at least 1.5 years**	12 years	27
Murder	31	at least 16 years	108 years	1 and 18
Robbery	18	at least 5 years	42 years	0
Assault	13	at least 6 years	27 years	0
Kidnapping	3	at least 9 years	77 years	0
Burglary	1	at least 10 years	15 years	0

* This number has been rounded to the next whole year and excludes life sentences.

** Three lower-level felony cases had minimum sentences in the 1.5 to 3 year range. However, these cases all had multiple counts and prior convictions.

State Expenditures

Overall, the bill may reduce General Fund expenditures within the Department of Corrections (DOC) in future years. Based on the average number of years sentenced and minimum sentencing ranges for these crimes, any savings are not expected within the five-year period used to forecast changes in DOC appropriations. Given the severity of these crimes, it is not possible to determine whether and how often judges will choose to sentence future cases to concurrent terms rather than consecutive terms. To the extent a bed reduction occurs, the fiscal note assumes it will be addressed through the annual budget process. For informational purposes, offenders cost the state about \$59.90 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.88 per offender per day for medical care provided by the DOC.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed.

State and Local Government Contacts

Corrections District Attorneys Information Technology Judicial Criminal