

Colorado Legislative Council Staff

**STATE and LOCAL
FISCAL IMPACT**

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Prime Sponsor(s): Rep. McCluskey
Sen. Johnson S.

Bill Status: House Judiciary

Fiscal Analyst: Jonathan Lurie (303-866-2677)

TITLE: CONCERNING LAWS RELATED TO THE IMPERSONATION OF A PEACE OFFICER, AND MAKING AN APPROPRIATION THEREFOR.

Fiscal Impact Summary	FY 2004-05	FY 2005-06	FY 2006-07
State Revenues General Fund	less than \$5,000 a year		
State Expenditures General Fund GF Transfer to Corrections Expansion Reserve Fund	\$257,028	\$65,405	\$65,405
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: TABOR			
Effective Date: Upon signature of the Governor			
Appropriation Summary for FY 2004-05: Five-year Fiscal Impact on Correctional Facilities			
Local Government Impact: Impact on county jails due to misdemeanor penalties			

Summary of Legislation

This bill changes the criminal penalty associated with the crime of impersonating a peace officer from a class 1 misdemeanor to a class 6 felony, with a mandatory minimum sentence of 15 months (the midpoint of the normal sentencing range for a class 6 felony). This bill also creates a class 1 misdemeanor for the unauthorized use of emergency lights (“a red or blue light visible from the front of the vehicle”) without a permit. Finally, this bill allows emergency service volunteers to operate emergency lights on private vehicles with a permit from their respective agencies.

State Revenues

This bill creates a new misdemeanor penalty for the unauthorized use of emergency lights. Defendants convicted of this crime may be ordered to pay a fine up to \$5,000. In FY 2002-03, there were 8 fines ordered for committing a similar crime of impersonating a peace officer. The average fine amount was \$288 for these cases. Therefore, this fiscal note expects the state to receive a minimal amount of fine revenue (less than \$5,000 a year) due to the passage of this bill. Fine revenue not otherwise appropriated is deposited into the General Fund. Increased fine revenue will count toward the state’s constitutional revenue limit and increase any potential refund of excess revenue that is required by TABOR (Article X, Section 20 of the State Constitution).

State Expenditures

Judicial Branch, minimal impact. In FY 2002-03, there were 21 class 1 misdemeanor charges of impersonating a peace officer. This fiscal note assumes there will be the same number of felony cases a year for committing this crime. Therefore, there will be 21 fewer misdemeanor charges but 21 more felony charges. A felony case requires more court time than a misdemeanor case, due to the nature of the stronger penalty. However, these increases will be minimal and absorbed within existing resources.

Department of Corrections, \$257,028 in FY 2004-05 and \$65,405 each year thereafter. As a result of the felony penalty for impersonating a peace officer, this fiscal note estimates that there will be 21 felony cases a year in which the most serious charge is impersonating a peace officer. Based on historical trends, this fiscal note expects that some of these defendants will be found guilty (64 percent) and another portion of those convicted will be sent to prison (31 percent). Therefore, this fiscal note estimates that there will be 4.2 new prison placements a year as a result of this bill.

Due to the mandatory minimum sentence of 15 months (the midpoint of the presumptive range), this fiscal note estimates that those sent to prison for committing this crime will serve approximately 10.7 months in prison, slightly more than the average length of stay for class 6 felony convicts. This will result in a bed impact of 3.7 inmates per year from FY 2005-06 to FY 2008-09.

Five-Year Fiscal Impact on Correctional Facilities

Section 2-2-703 C.R.S., requires that bills resulting in a net increase in periods of imprisonment cannot be passed without five years of appropriations for prison bed construction and operating costs. Construction costs are estimated to be \$69,467 per inmate bed. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentence. Prison operating costs are estimated to be \$17,677 per bed per year to reflect the cost of placing an inmate in a private prison facility or in a county jail contract placement.

Five-Year Fiscal Impact on Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2004-05	0.0	\$257,028	\$0	\$257,028
FY 2005-06	3.7	\$0	\$65,405	\$65,405
FY 2006-07	3.7	\$0	\$65,405	\$65,405
FY 2007-08	3.7	\$0	\$65,405	\$65,405
FY 2008-09	3.7	\$0	\$65,405	\$65,405
Total		\$257,028	\$261,620	\$518,648

Local Government Impact

Because this bill creates a new class 1 misdemeanor penalty for the unauthorized use of emergency lights, county jails may see an increase in the number of defendants sentenced to county jail for committing this crime. The jail sentence range for a class 1 misdemeanor is 6 to 18 months. While the daily cost to house an offender in a county jail facility varies, the FY 2003-04 rate the state pays local jails for holding state inmates is \$46.49 per day, or \$16,969 a year. Because the court has the discretion to impose a fine, a jail sentence, or an alternative placement, the costs to local governments cannot be determined at this time.

This bill also requires that volunteer personnel who use emergency lights on their private vehicles must be issued a permit from the local fire department or ambulance service. Local districts will bear some of the cost of administering this service. However, this fiscal note estimates that these costs can be funded with existing local resources.

State Appropriations

In order to comply with Section 2-2-703, C.R.S., this bill will require a five-year appropriation clause. In FY 2004-05, this bill will require a General Fund transfer of \$257,028 from the Capital Construction Fund to the Corrections Expansion Reserve Fund for prison bed construction costs. The Department of Corrections will also require a General Fund appropriation of \$65,405 in each year from FY 2005-06 through FY 2008-09 for prison bed operation costs.

Departments Contacted

Corrections Judicial Branch Law Public Defender Public Safety