

  
*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

**Drafting Number:** LLS 12-0039  
**Prime Sponsor(s):** Rep. Fields; Conti  
 Sen. Jahn; King S.

**Date:** June 25, 2012  
**Bill Status:** Signed into Law  
**Fiscal Analyst:** Kerry White (303-866-3469)

**TITLE:** CONCERNING INCREASING THE PUNISHMENT FOR LEAVING THE SCENE OF A TRAFFIC ACCIDENT THAT RESULTED IN SERIOUS BODILY INJURY TO ANY PERSON.

Fiscal Impact Summary	FY 2012-13	FY 2013-14
<b>State Revenue</b> Multiple Cash Funds	See State Revenue section.	
<b>State Expenditures</b> General Fund	\$41,413	\$192,363
<b>FTE Position Change</b>		
<b>Effective Date:</b> The bill was signed into law by the Governor on June 6, 2012, and takes effect August 8, 2012, assuming no referendum petition is filed.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

This bill increases the penalty for the driver of a vehicle that leaves the scene of an accident resulting in serious bodily injury (SBI) from a class 5 felony to a class 4 felony.

**Background**

Under current law, persons who *attempt* to commit the crime of leaving the scene of an accident resulting in SBI may be charged with a class 6 felony. In certain circumstances, the offense may also be treated as a traffic infraction and sentenced accordingly. In many cases, sentences for traffic infractions include jail, fines, probation, and/or community service.

In FY 2010-11, the Department of Corrections (DOC) admitted a total of 18 offenders for the crime of leaving the scene of an accident resulting in SBI. Of this number, 16 were guilty of a class 5 felony and 1 was guilty of a class 6 felony. One additional offender was admitted for a class 3 felony, arising from an accident which resulted in a death.

## **State Revenue**

State revenue is anticipated to increase by less than \$5,000 per year. Per Section 18-1.3-401 (III) (A), C.R.S., the fine penalty for a class 4 felony is \$2,000 to \$500,000, and the fine penalty for a class 5 felony is \$1,000 to \$100,000. Unless otherwise provided by law, the fines are to be deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, and the timing of payments are established on a per-offender basis, the impact to the cash fund and the General Fund cannot be determined.

## **State Expenditures**

This bill is anticipated to increase General Fund state expenditures in the Department of Corrections by \$41,413 for FY 2012-13 and \$192,363 for FY 2013-14. The increase is estimated as \$503,098 per year, beginning in FY 2014-15, as discussed below.

*Department of Corrections costs.* The Department of Corrections will experience an increase in costs resulting from longer prison sentences and an increased number of offenders admitted to the system in each year. These costs are based on the following assumptions:

- of the cases that result in a conviction, 40 percent will be sentenced to the DOC.
- a total of 18 persons will continue to be sentenced to DOC per year;
- of these 18 persons, 16 individuals will each increase their length of stay by 12.8 months as a result of being sentenced as a class 4 felony, and two persons will each increase their length of stay by nine months as a result of being sentenced as a class 5 felony;
- due to an increased number of trials, two additional persons will be sentenced to DOC facilities that under current law would not have received a prison sentence;
- all offenders sentenced to a DOC facility will either be housed in a private contract prison, except during intake, or cause an existing offender to be transferred to a private contract prison; and
- parole costs will be affected in the out-years as a result of increased mandatory parole terms accompanying the increase in the severity of the felony. A class 4 felony, for example, requires an additional year of mandatory parole compared to a class 5 felony.

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. As state-run facilities are currently at or near capacity, any such 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 \$56.73 per offender per day, including the current daily rate of \$52.69 and an estimated \$4.04 per offender per day for medical care provided by the DOC. Table 1 shows the estimated cost of the bill over the next five fiscal years.

<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2012-13</b>	2.0	\$0	\$41,413	\$41,413
<b>FY 2013-14</b>	9.3	\$0	\$192,363	\$192,363
<b>FY 2014-15</b>	24.3	\$0	\$503,098	\$503,098
<b>FY 2015-16</b>	24.3	\$0	\$503,098	\$503,098
<b>FY 2016-17</b>	24.3	\$0	\$503,098	\$503,098
<b>Total</b>		\$0	\$1,743,070	\$1,743,070

**Judicial department.** This analysis assumes the bill will not change the population of persons who are arrested for leaving the scene of an accident resulting in SBI and:

- as a class 4 felony has a more serious penalty than under current law, two to five more persons will choose to go to trial each year; and
- the majority of cases that go to trial result will continue to result in a conviction.

Overall, the fiscal impact of the bill to the Judicial Branch is expected to be minimal and any increased workload will be managed within existing appropriations.

**No appropriations clause.** The bill specifies that affected state agencies are required to implement the provisions of the bill within existing appropriations and that no separate appropriation of state moneys is required to carry out the purposes of the bill. Notwithstanding this clause, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process or eliminate other functions not required under state law.

### **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. House Bill 12-1084 increases the classification for leaving the scene of an accident causing SBI from a class 5 felony to a class 4 felony. Similarly, the penalty for an attempt to leave the scene of an accident causing SBI is increased from a class 6 felony to a class 5 felony.

Over the previous five calendar years, there were an average of 489 charges and 91 convictions for at least one charge of leaving an accident causing SBI. This analysis assumes that the current prevalence of this crime will remain consistent into the future.

### **Local Government Impact**

District Attorneys and Public Defenders may experience an increase in workload as a result of the workload associated with a small increase in the number of individuals who chose to take their cases to trial. However, the fiscal impact of the bill on these agencies is expected to be minimal.

### **State Appropriations**

While the bill does not include an appropriation, this analysis concludes that the Department of Corrections requires a General Fund appropriation of \$41,413 for FY 2012-13.

### **Departments Contacted**

Corrections          Judicial