

**FINAL
FISCAL NOTE**

Drafting Number: LLS 12-0735
Prime Sponsor(s): Rep. Levy
 Sen. Steadman

Date: July 26, 2012
Bill Status: Signed into Law
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TITLE: CONCERNING EARNED TIME FOR INMATES, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures General Fund (reduction)	at least (\$273,900)	at least (\$1,704,635)
FTE Position Change	2.0 FTE	2.0 FTE
Effective Date: The bill was signed into law by the Governor and took effect May 24, 2012, with the exception of Section 2, which will not become effective until at least August 22, 2012.		
Appropriation Summary for FY 2012-2013: For FY 2012-13, the DOC requires a General Fund reduction of \$273,900 and an allocation of 2.0 FTE. The Governor's Office of Information Technology should receive \$100,640 in reappropriated funds.		
Local Government Impact: None.		

Summary of Legislation

Current law allows most offenders in the custody of the Department of Corrections (DOC) to accrue earned time that shortens the length of their sentence by 10 to 12 days per month. Generally, an offender's sentence cannot be reduced by more than 30 percent and an offender cannot accrue earned time after being reincarcerated following revocation of parole for a violation. The bill expands eligibility for earned time accrual to include offenders who were convicted for felony offenses that occurred on or after July 1, 1993, and who were reincarcerated under a parole revocation.

Additionally, the bill creates a new category of earned time called "achievement earned time," which may be awarded to offenders who:

- successfully complete a milestone or phase of an educational, vocational, therapeutic, or re-entry program; or
- demonstrate exceptional conduct (defined in the bill) that promotes the safety of correctional staff, volunteers, contractors, or other persons under the supervision of the DOC.

At the discretion of the executive director of the DOC, offenders may be awarded up to 60 days of achievement earned time per program milestone or phase, or per instance of exceptional conduct; except that no offender may be awarded more than a total of 120 days.

State Expenditures

The DOC will see a net General Fund savings of at least \$273,900 in FY 2012-13 and at least \$1,704,635 in FY 2013-14. Administration costs will increase as a result of new earned time rules, which will require IT programming changes and additional work on the part of Time and Release staff. Operating costs will decrease as a result of inmates accruing additional earned time and spending less time in prison and on parole. Table 1 summarizes the General Fund savings and costs to the DOC, which are explained in greater detail in the following sections.

Table 1. Summary of Savings and Costs Under HB 12-1223		
Bill Requirements	FY 2012-13	FY 2013-14
Earned Time for Reincarcerated Offenders	(\$202,534)	(\$1,131,467)
Achievement Earned Time	(256,343)	(654,737)
Implementation	184,977	81,569
TOTAL	(\$273,900)	(\$1,704,635)

Implementation costs. The changes to the accrual and award of earned time will require additional staffing in the Time and Release Operations section of the DOC. The fiscal note assumes that 2.0 FTE will be required in order to implement the bill. Additionally, IT programming changes are necessary for various applications related to time and release. The programming changes are expected to take approximately 1,360 hours at an hourly rate of \$74, for a total one-time cost of \$100,640. This amount will be reappropriated to the Governor's Office of Information Technology. The costs associated with the bill are shown in Table 2.

Table 2. DOC Expenditures for Implementing HB 12-1223		
Cost Components	FY 2012-13	FY 2013-14
Personal Services	\$73,031	\$79,669
FTE	2.0	2.0
Operating Expenses and Capital Outlay	\$11,306	\$1,900
Computer Programming	100,640	0
TOTAL	\$184,977	\$81,569

Savings from expanded earned time for reincarcerated offenders. The bill will also result in General Fund savings for the DOC for two reasons. First, offenders who are reincarcerated due to a parole revocation will be eligible to accrue earned time during that period of reincarceration. Additionally, achievement earned time will allow program completers to release early. Savings attributable to the bill will be realized when offenders reach their sentence discharge date, which includes all periods of incarceration and parole.

Table 3 addresses the earned time for reincarcerated offenders and is based on the following assumptions:

- the number of eligible offenders was estimated using a sample of offenders who completed their sentence in FY 2010-11 who had a parole violation within the previous 60 months, but does not include offenders who were reincarcerated after committing a new crime;
- the lower bounds of the savings range takes into account fewer parole revocations and shorter periods of parole as a result of recent legislation;
- savings are calculated by multiplying the number of eligible offenders each month by the number of qualifying months by the average monthly award of days and adding those numbers for a yearly total;
- half of the offenders will reach their sentence discharge date while on parole following a period of reincarceration and half will reach their sentence discharge date while still in prison; and
- prison savings are calculated at the daily private prison rate, including medical costs, of \$56.73 per inmate and parole savings are calculated at the daily rate of \$12.51 per parolee.

Table 3. Five-year Fiscal Impact of Earned Time for Reincarcerated Offenders			
Fiscal Year	Range of Estimated Prison Savings	Range of Estimated Parole Savings	Total Savings Range
FY 2012-13	(\$165,941 to \$737,518)	(\$36,593 to \$162,636)	(\$202,534 to \$900,154)
FY 2013-14	(\$927,038 to \$4,120,171)	(\$204,429 to \$908,573)	(\$1,131,467 to \$5,028,744)
FY 2014-15	(\$2,058,799 to \$9,148,883)	(\$453,937 to \$2,017,496)	(\$2,512,736 to \$11,166,379)
FY 2015-16	(\$3,342,805 to \$14,856,909)	(\$737,149 to \$3,276,220)	(\$4,079,954 to \$18,133,129)
FY 2016-17	(\$4,687,741 to \$20,834,404)	(\$1,033,732 to \$4,594,366)	(\$5,721,473 to \$25,428,770)
Five-year Total	(\$11,182,324 to \$49,697,885)	(\$2,465,840 to \$10,959,291)	(\$13,648,164 to \$60,657,176)

Savings from achievement earned time. Savings attributable to achievement earned time are more difficult to calculate because they are based on a DOC policy that has not yet been written and existing program completion data are largely inconsistent or absent. The fiscal note used a sample of FY 2010-11 releases, excluding approximately 33 percent of offenders who recidivate and return to prison within the first year of release, to estimate a range of possible savings. The achievement earned time awards are expected to shorten offenders' periods of incarceration and

savings are calculated at the daily rate of \$56.73. It is expected that the average number of days offenders are awarded will increase beginning in the second year of implementation as more offenders complete milestones or phases of educational, vocational, therapeutic, or re-entry programs.

Table 4. Five-year Fiscal Impact of Achievement Earned Time	
Fiscal Year	Range of Estimated Prison Savings
FY 2012-13	(\$256,343 to \$848,099)
FY 2013-14	(\$654,737 to \$1,818,713)
FY 2014-15	(\$961,933 to \$2,404,832)
FY 2015-16	(\$992,843 to \$2,482,109)
FY 2016-17	(\$1,005,220 to \$2,513,050)
Total	(\$3,871,076 to \$10,066,803)

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 5.

Table 5. Expenditures Not Included Under HB 12-1223*		
Cost Components	FY 2012-13	FY 2013-14
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$12,216	\$12,226
Supplemental Employee Retirement Payments	3,894	4,890
TOTAL	\$16,110	\$17,116

*More information is available at: <http://colorado.gov/fiscalnotes>

State Appropriations

For FY 2012-13, the DOC requires a General Fund reduction of \$273,900 and an allocation of 2.0 FTE. The Governor's Office of Information Technology should receive \$100,640 in reappropriated funds.

Departments Contacted

Corrections