

**FINAL
FISCAL NOTE**

Drafting Number: LLS 13-0520
Prime Sponsor(s): Rep. Foote
 Sen. Heath

Date: May 14, 2013
Bill Status: Signed into Law
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TITLE: CONCERNING THE STATUTORY DEFINITION OF A DEADLY WEAPON.

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue Cash Funds Fines Collection Cash Fund	See State Revenue section.	
State Expenditures General Fund	See State Expenditures section.	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor and took effect on March 15, 2013.		
Appropriation Summary for FY 2013-2014: None required.		
Local Government Impact: See Local Government Impact Section.		

Summary of Legislation

Under current criminal law, a deadly weapon is defined as any weapon, device, instrument, material, or substance, whether animate or inanimate, that in the manner it is used or intended to be used is capable of producing death or serious bodily injury. Current law specifically includes firearms (whether loaded or unloaded), knives, and bludgeons in this definition of a deadly weapon. This bill modifies the definition so that a firearm, whether loaded or unloaded, is defined as a deadly weapon regardless of the manner in which it is used or intended to be used.

For some offenses, the use of a deadly weapon raises the classification of the crime, with a corresponding increase in possible prison or jail time and fines. For example, menacing is a class 3 misdemeanor, but is a class 5 felony if committed by the use of a deadly weapon. In addition, certain offenses, such as kidnapping and sexual offenses, are considered crimes of violence if the offender used, or possessed and threatened the use of, a deadly weapon. Any offender convicted of a crime of violence must be sentenced to a prison term which is at least at the midpoint in the presumptive range, but not more than twice the maximum term. However, current criminal offenses and sentencing guidelines that make reference to "deadly weapons" generally already include language as to the use or intended use of the weapon, so the bill is unlikely to affect the majority of criminal offense and sentencing statutes.

State Revenue

The number of cases affected by the bill is expected to be very small. However, if more people can be charged with a criminal offense related to a deadly weapon as a result of the bill, state cash fund revenue from fines could potentially increase. The annual revenue increase is expected to be very small, because the majority of criminal offenses concerning deadly weapons already make reference to the use or intended use of the weapon, and it is likely that offenders affected by the bill are already paying fines related to other charges. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, and because the types of cases that may be affected by the bill will depend on the facts of the particular case, the impact to state revenue cannot be determined.

State Expenditures

Department of Corrections. Although the number of criminal cases affected by the bill is expected to be very small, the bill has the potential to increase the number of individuals incarcerated in the Department of Corrections and the length of time for which they are incarcerated if more people are convicted of crimes involving deadly weapons. Because current criminal offenses and sentencing guidelines that make reference to deadly weapons generally include language as to the use or intended use of the weapon, the bill is unlikely to affect the majority of cases concerning deadly weapons. In addition, the use of a deadly weapon is generally a sentence enhancement, so it is reasonable to assume that offenders are already being incarcerated for some length of time regardless of whether a deadly weapon was involved in their offense. Therefore, the possible increase in sentencing length and the increased need for prison beds will not affect appropriations for the Department of Corrections until future fiscal years, at which point the need will be addressed by the annual budget process.

Judicial Branch. The duration and number of court cases concerning deadly weapons are not expected to change drastically as a result of this bill, because current criminal offenses that make reference to deadly weapons generally include language as to the use or intended use of the weapon. In addition, because the use of a deadly weapon is generally a sentence enhancement, and not a separate offense, this fiscal note assumes that the Judicial Branch is already involved in the majority of cases that could be affected by this bill.

Local Government Impact

Although the number of cases affected by the bill is expected to be very small, the bill has the potential to increase the number of individuals incarcerated in county jails if more people are convicted of crimes involving deadly weapons. Because the courts have the discretion of incarceration or imposing a fine, and because the types of cases that may be impacted will depend on the facts of the particular case, the impact at the local level cannot be determined. In addition, the use of a deadly weapon is generally a sentence enhancement, so it is reasonable to assume that county jails are already incarcerating the majority of offenders who may be affected by the bill.

The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates.

Departments Contacted

Counties
District Attorneys
Law
Sheriffs

Municipalities
Human Services
Local Affairs

Corrections
Judicial
Public Safety