



# Fiscal Note

## Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

### SB 25-190: OFFENDER RELEASE FROM CUSTODY

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**Prime Sponsors:**

Sen. Ball; Gonzales J.  
Rep. Bacon; Soper

**Fiscal Analyst:**

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**Published for:** House Judiciary

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**Version:** First Revised Note

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**Fiscal note status:** This revised fiscal note reflects the reengrossed bill.

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### Summary Information

**Overview.** The bill allows a defendant released on bail to stay overnight in jail to facilitate a connection to a service provider, and makes changes to special needs parole within the Department of Corrections.

**Types of impacts.** The bill is projected to affect the following areas on an ongoing basis:

- State Expenditures
- Local Government

**Appropriations.** No appropriation is required.

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**Table 1**  
**State Fiscal Impacts**

| Type of Impact          | Budget Year<br>FY 2025-26 | Out Year<br>FY 2026-27 |
|-------------------------|---------------------------|------------------------|
| State Revenue           | \$0                       | \$0                    |
| State Expenditures      | \$0                       | \$0                    |
| Transferred Funds       | \$0                       | \$0                    |
| Change in TABOR Refunds | \$0                       | \$0                    |
| Change in State FTE     | 0.0 FTE                   | 0.0 FTE                |

## Summary of Legislation

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The bill allows a defendant released on bail to stay overnight in jail to facilitate a connection to a service provider, and makes changes to special needs parole within the Department of Corrections (DOC), as outlined below.

### Extenuating Circumstances—County Jail Release

Under current law, a sheriff may allow an individual who posted bail to stay overnight in jail if extenuating circumstances exist, including inclement weather, lack of transportation, and lack of shelter. The bill adds facilitating a connection to a service provider as an extenuating circumstance. The bill also requires individuals held overnight for an extenuating circumstance to be released by 10 a.m. the next morning.

### Special Needs Parole—Department of Corrections

Under current law, the DOC is required to refer an offender for special needs parole who:

- is over the age of 55 and has been diagnosed by a health care provider as suffering from a chronic infirmity, illness, condition, disease, or disorder that causes serious impairment that limits the person's ability to function;
- requires costly care or treatment;
- is 64 or older and has served at least 20 years of a sentence and was not convicted of a class 1 or 2 victim rights act felony, unlawful sexual behavior, domestic violence, or stalking; or
- is incompetent to proceed and does not have a substantial probability of being restored

The bill changes definitions used to determine who qualifies as a special needs offender. Under the bill, a special needs offender is an inmate that has been diagnosed by a health care provider as suffering either a serious impairment that limits the person's ability to function or a severe cognitive impairment. These two terms are clarified in the bill.

The definition is also dependent on an inmate's age, such that inmates who are 55 years or older need only be diagnosed with one of the specified conditions, while inmates who are younger than 55 years must also have served between 25 percent to 40 percent of their sentence depending on parole eligibility for the crime, and not incurred a class I penal discipline violation within the previous 12 months. An inmate who is 64 years or older and suffering from severe cognitive impairment may also be a special needs offender, unless they have been convicted of certain crimes.

Unless the individual has a terminal illness that is irreversible, unlikely to be cured, and likely to cause death, special needs parole does not apply to a person who:

- was convicted of a class 1 felony but is eligible for parole if the inmate has served fewer than 20 calendar years in the DOC;
- sentenced for a class 1 felony without the possibility of parole; or
- was convicted of a class 2 felony crime of violence and the offender has served fewer than 10 calendar years.

The bill clarifies that the health care professional who makes the diagnosis is not liable regarding special needs determinations. The DOC is required to include in each contract with a health care provider a requirement that the provider screen each patient for eligibility for special needs parole. The DOC must not set aside or disregard a determination on the basis that an employee of the department does not concur with the assessment, or on the ability for the DOC to accommodate the inmate's condition. An inmate is not required to seek an outside medical opinion of impairment or second opinion of any kind.

The bill requires the DOC to provide relevant and necessary information to the public defender liaison to assist offenders with special needs parole, and to include information from the liaison in the referral packet to the Parole Board.

The bill changes what the Parole Board must consider when conducting special needs parole. This includes removing the requirement to consider the ability of the DOC to provide adequate medical or behavioral health treatment.

## Study Correctional Release

The bill requires Legislative Council Staff to conduct a study of options for releasing aging and seriously ill offenders from secure custody to appropriate care or placing offenders in alternative programs. The bill outlines what must be included in the study and requires the report to be submitted to the General Assembly by December 15, 2025.

## Background and Assumptions

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[Senate Bill 21-146](#) expanded the criteria for special needs parole eligibility. Since the bill's passage, the DOC reports the following parole applications and hearing results:

- **FY 2021-22 (9-mo):** 76 applied, 12 approved, 23 tabled, 29 denied, 5 ineligible, and 1 deceased.
- **FY 2022-23 (12-mo):** 57 applied, 27 approved, 6 tabled, 21 denied, and 3 ineligible.
- **FY 2023-24 (12-mo):** 16 applied, 6 approved, 2 tabled, and 7 denied.
- **FY 2024-25 (7-mo):** 3 applied, 2 approved, 3 tabled, and 2 denied.

The DOC reports that there are currently 175 individuals in DOC utilizing an offender care aide, who assists an inmate with activities of daily living, and thus may be eligible for special needs parole under the bill. For the fiscal note for SB 21-146, the department identified about 350 eligible individuals. Based on the data above, 47 individuals of these 350 special needs individuals have been released over the 41 months since that bill took effect. If a similar release pattern holds for this bill, about 1 individual would be released every 2 months, on average. Other factors beyond parole eligibility influence whether an individual is approved for release, primarily the availability of appropriate post-release placement. Therefore, the fiscal note assumes additional releases as a result of the bill will create only a minimal cost savings to the DOC. Because the timeframe for special needs parole releases will depend on Parole Board decisions, the fiscal note does not show cost savings, but assumes this will be addressed through the annual budget process.

## State Expenditures

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The bill minimally decreases expenditures in the DOC starting in FY 2025-26 and increases workload in Legislative Council Staff in FY 2025-26 only as described below.

### Department of Corrections

The bill will decrease costs in the DOC due to additional persons being released on special needs parole. As discussed in the Assumptions section, the fiscal note assumes that special needs parole releases will be gradual, and can be captured through the annual budget process based on the prison population forecast. For informational purposes, each individual released on parole saves the state \$1,365 a month, or \$16,380 a year.

### Legislative Council Staff

The bill increases workload in Legislative Council Staff to conduct a study of options for releasing aging and seriously ill offenders from DOC. The fiscal note assumes this research will be conducted through the course of interim research topics currently conducted by Legislative Council Staff; therefore, this workload can be accomplished within existing resources.

## Local Government

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If sheriffs allow additional individuals to stay overnight in jail, expenditures may increase. The fiscal note assumes overnight stays under the bill to facilitate connection with a service provider will be rare, therefore any additional costs are assumed to be minimal.

## Effective Date

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The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

## State and Local Government Contacts

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|--------------------|---------------------------|
| Corrections        | Legislative Council Staff |
| District Attorneys | Sheriffs                  |
| Judicial           |                           |

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The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).