

**STATE
FISCAL IMPACT**

Drafting Number: LLS 14-0058	Date: February 4, 2014
Prime Sponsor(s): Rep. Dore Sen. Tochtrop	Bill Status: House Judiciary Fiscal Analyst: Kerry White (303-866-3469)

SHORT TITLE: PAROLEE TAMPER WITH ELECTRONIC MONITORING DEVICE

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
State Revenue		
State Expenditures	\$801,994	\$1,448,230
General Fund	\$801,994	\$1,448,230
FTE Position Change		
Appropriation Required: \$6,661,298 - Department of Corrections (FY 2014-15 - FY 2018-19)		

* This summary shows changes from current law under the bill for each fiscal year.

Summary of Legislation

This bill provides that if a parolee removes or tampers with an electronic monitoring device (device), he or she is subject to an immediate warrant-less arrest. It clarifies that if a community parole officer has probable cause to believe the parolee has removed or tampered with the device, he or she may immediately make a warrant-less arrest or notify a law enforcement agency with jurisdiction over the parolee's last known address within 12 hours.

If the parole board determines that the parolee has violated the conditions of his or her parole by removing or tampering with a device, it is required to revoke the parolee's parole and reinstate the remainder of the parolee's sentence to the custody of the Department of Corrections (DOC).

Technical or Mechanical Defects

The bill contains a technical defect in that it requires a person to be returned to the custody of the DOC for the remainder of the parolee's sentence. Under current law, for offenders sentenced after 1993, two sentences are given: the prison sentence and a parole sentence. When an offender is released to parole, his or her prison sentence is considered discharged. In addition, custody of the DOC includes both incarceration and supervision.

The fiscal note assumes that a parolee will be returned to prison to serve the remainder of the prison sentence if he or she was released to parole prior to the mandatory release date and then be discharged from prison to serve the parole sentence. If the parolee was released on his or her mandatory release date, the fiscal note assumes that he or she would serve the parole sentence in prison. These assumptions are based on language in the bill, although further clarifying amendments may be required.

State Expenditures

This bill will increase state General Fund expenditures for the Department of Corrections by \$801,994 in FY 2014-15 and by \$1,448,230 in FY 2015-16.

Five-Year Fiscal Impact on Correctional Facilities

Assumptions. Costs are based on the assumption that, beginning on July 1, 2014, an average of 56 people will be returned to prison on a staggered basis each year for tampering with a device. Based on the requirements of HB14-1044, the fiscal note assumes that each person will serve an average of 18.6 months in prison rather than the current average of 4.0 months for a parole violation. Costs are based on the assumption that workload related to holding an administrative hearing and returning an offender to prison will not change and that the number of parolees subject to an administrative hearing will not change.

It should be noted that it is possible that costs may be incurred in the current FY 2013-14, depending on when the bill is signed into law. To the extent this occurs, the fiscal note assumes the DOC will request additional appropriations through the annual budget process. In addition, in the absence of specific language that directs how these cases should be treated, the fiscal note excludes offenders on parole for crimes sentenced before 1993.

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. Any 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 \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 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.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2014-15	37.3	\$0	\$801,994	\$801,994
FY 2015-16	67.4	\$0	\$1,448,230	\$1,448,230
FY 2016-17	68.0	\$0	\$1,460,046	\$1,460,046
FY 2017-18	68.7	\$0	\$1,475,514	\$1,475,514
FY 2018-19	68.7	\$0	\$1,475,514	\$1,475,514
Total			\$6,661,298	\$6,661,298

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

The Department of Corrections requires the five-year appropriations shown in Table 1.

State and Local Government Contacts

Corrections

Judicial