

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 14-0813  
**Prime Sponsor(s):** Rep. Gerou

**Date:** February 7, 2014  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Kerry White (303-866-3469)

**SHORT TITLE:** INCREASED PENALTIES EMER MED SERV PROVIDERS

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>		
Cash Funds	<\$5,000	<\$5,000
<b>State Expenditures</b>		
General Fund	See State Expenditures section.	
<b>FTE Position Change</b>		
<b>Appropriation Required:</b> \$79,347 - 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 adds emergency medical services (EMS) personnel to the list of victims that trigger enhanced sentencing for the crimes of first degree murder, first degree assault, and second degree assault when the victim was engaged in his or her official duties and the offender should have reasonably known the person was an EMS provider.

**Background**

According to the Department of Law, there are about 15,000 peace officers in Colorado. According to the Department of Public Safety, there are about 17,500 fire fighters in Colorado. Of this number, about 30 percent are professional firefighters and 70 percent are volunteer firefighters. According to the Department of Public Health and Environment, there are about 18,000 EMS providers, of which some may also be firefighters.

**Assaults.** Between January 1, 2010, and December 31, 2013, there were 12,802 filings for assault against a peace officer or firefighter. Of this number, 807 people were convicted of assault in the first degree and 603 (75 percent) were sentenced to the Department of Corrections (DOC). A total of 4,761 people were also convicted of assault in the second degree and 45 percent or 2,143, were sentenced to the DOC. Both of these crimes are a class 3 felony crime of violence, for which the penalty is 8 to 24 years in prison, a fine, or both.

**Murder.** Under current law, first degree murder of a police officer or firefighter requires a sentence of life imprisonment without the possibility of parole or death. Between January 1, 2010, and December 31, 2013, there were no charges or convictions of this offense.

Table 1, below, shows the changes in sentencing for offenses committed against EMS provider.

<b>Table 1. Current and Proposed Sentencing Ranges for Offenses Under HB14-1214</b>		
<b>Crime</b>	<b>Current Sentencing Range</b>	<b>Proposed Sentencing</b>
<b>First Degree Murder</b> <b>18-3-102, C.R.S.</b> Class 1 felony	Natural life or death.	Natural life without parole or death.
<b>Assault in the First Degree</b> <b>18-3-202, C.R.S.</b> Class 3 felony, except when committed in the heat of passion, when it is a Class 5 felony	Class 3 felony penalty is 4-12 years. Mandatory parole is 5 years. The fine penalty, if levied, is \$3,000 to \$750,000.  Class 5 felony penalty is 1-3 years. Mandatory parole is 2 years. The fine penalty, if levied, is \$1,000 to \$100,000.	Class 3 crime of violence, which requires a sentence of 8-24 years. Mandatory parole is 5 years. The fine penalty, if levied, is \$3,000 to \$750,000.
<b>Assault in the Second Degree</b> <b>18-3-203, C.R.S.</b> Class 4 felony, except when committed in the heat of passion, when it is a Class 5 felony	Class 4 felony penalty is 2-6 years. Mandatory parole is 3 years. The fine penalty, if levied, is \$2,000 to \$500,000.  Class 5 felony penalty is 1-3 years. Mandatory parole is 2 years. The fine penalty, if levied, is \$1,000 to \$100,000.	Class 3 crime of violence, which requires a sentence of 8-24 years. Mandatory parole is 5 years. The fine penalty, if levied, is \$3,000 to \$750,000.

**State Revenue**

Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. Under current law, persons convicted of assault against an EMS provider may be convicted of a class 3, class 4, or class 5 felony. Under HB14-1214, all such convictions will be a class 3 felony. To the extent that someone would have otherwise been convicted of a class 4 or class 5 felony, and the court includes a fine with the sentence, state revenue could increase. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

**State Expenditures**

This bill is expected to increase state expenditures by a total of at least \$79,347 through FY 2018-19.

**Five-Year Fiscal Impact on Correctional Facilities**

This bill is anticipated to increase state General Fund expenditures in the DOC by at least \$79,347 through FY 2018-19.

The fiscal note assumes that at least one offender per year will be convicted of a class 3 crime of violence felony and sentenced to the DOC, rather than a class 4 felony, and that at least one offender per year will be convicted a class 3 crime of violence and sentenced to the DOC, rather than a class 5 felony. While adding EMS personnel to the list of victims that trigger enhanced sentencing increases the pool of potential victims by 50 percent, the fiscal note assumes the rate of offenses against EMS personnel is much lower than the rate of offenses against peace officers and firefighters. Costs are calculated based on the assumptions that:

- the rate of offenses that qualify for enhanced penalties will increase by 1 percent for first degree assault and second degree assault;
- no offenders will be convicted of a first degree murder of an EMS provider and be sentenced to natural life without parole or death;
- each offender that would have been sentenced to the DOC for a class 4 felony will serve an additional 40.7 months in prison as a class 3 crime of violence; and
- each offender that would have been sentenced to the DOC for a class 5 felony will serve an additional 53.9 months in prison as a class 3 crime of violence.

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. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 2 shows the estimated cost of the bill over the next five fiscal years.

<b>Table 2. Five-Year Fiscal Impact On Correctional Facilities</b>				
<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2014-15</b>	0.0	\$0	\$0	\$0
<b>FY 2015-16</b>	0.0	\$0	\$0	\$0
<b>FY 2016-17</b>	0.0	\$0	\$0	\$0
<b>FY 2017-18</b>	0.9	\$0	\$20,052	\$20,052
<b>FY 2018-19</b>	2.8	\$0	\$59,296	\$59,296
<b>Total</b>		<b>\$0</b>	<b>\$79,347</b>	<b>\$79,347</b>

**Judicial department.** The fiscal note assumes that workload for trial courts, the Office of the State Public Defender, or the Office of the Alternate Defense Counsel could increase. This assumes that by increasing the penalty for offenses against EMS providers, cases are more likely to go to trial and take additional resources to prosecute or defend. As of this writing, any such increase in workload is anticipated to be minimal. The fiscal note assumes that if the number of offenses exceeds the estimates in the fiscal note, that affected agencies may need to request additional appropriations through the annual budget process.

To the extent that offenders who have assaulted an EMS provider are currently being sentenced to probation, the bill could also reduce workload for probation staff in the Judicial Department. As the fiscal note assumes that two offenders are convicted of offenses against EMS providers each year, any such reduction is assumed to be minimal and does not require a reduction in appropriations.

**Effective Date**

The bill takes effect August 6, 2014, if the General Assembly adjourns on May 7, 2014, as scheduled, and no referendum petition is filed. It applies to offenses committed on or after this date.

**State Appropriations**

The Department of Corrections requires the five-year appropriations shown in Table 2.

**State and Local Government Contacts**

Corrections	Counties	District Attorneys
Judicial	Law	Municipalities
Public Health and Environment	Public Safety	Special Districts