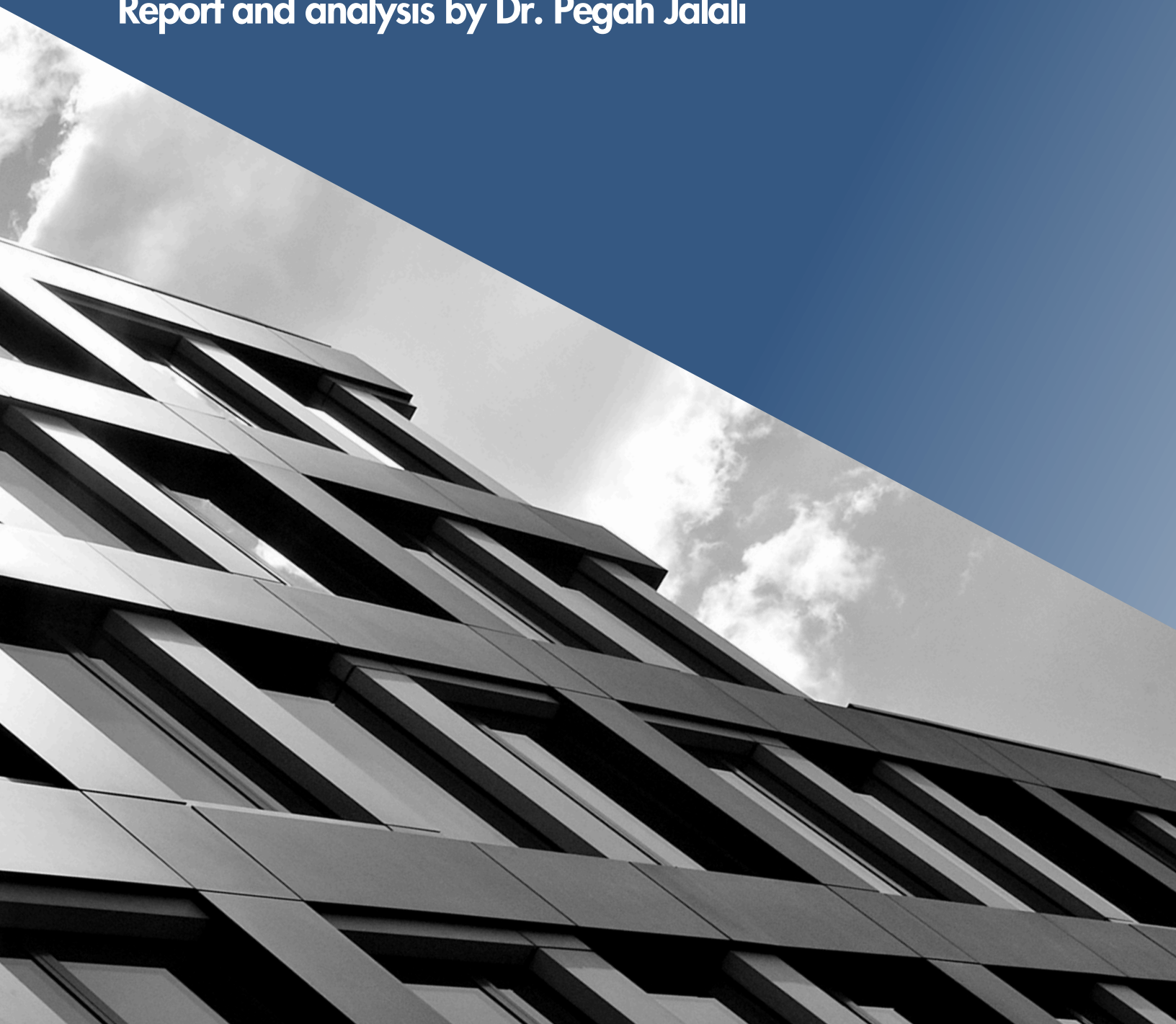




# Proposition 128 Fiscal Impact

Report and analysis by Dr. Pegah Jalali



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## What is the fiscal impact of passing Proposition 128 in Colorado?

Proposition 128 will appear on the ballot in November. If passed, it will increase the eligibility for parole by time served from 75% to 85% of one's sentence for those convicted of certain crimes in Colorado.

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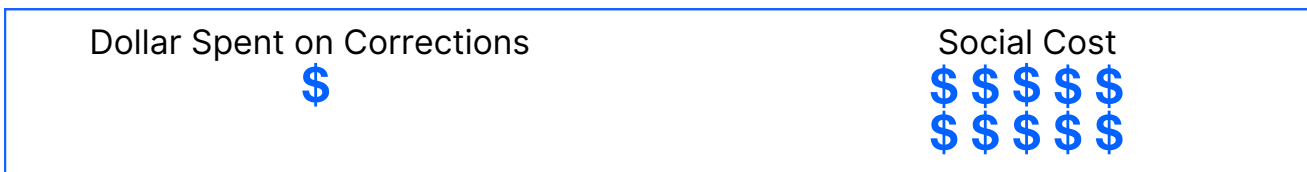
### INTRODUCTION

Currently in Colorado, most people in jail are eligible for parole — or early release — once they have served 75% of their sentence. Mandatory sentencing measures such as Proposition 128 propose to increase eligibility by time served from 75% to 85% for those convicted of certain crimes, starting in January 2025. This proposal has large social and economic costs, including to the state's budget.

The U.S. prison population has been growing rapidly, with a significant increase in the number of [elderly prisoners](#). This growth has strained the resources of states, and has had [negative economic, behavioral, and educational outcomes](#) for children and families of incarcerated people. When more people are incarcerated, states spend more and receive less tax money from individuals who would otherwise be working. Prolonged incarceration also affects families economically through foregone wages and prison costs.

In this report, we estimate the economic impact of mandatory sentencing measures such as Proposition 128 for Colorado. We quantify operating costs, capital construction costs, healthcare costs, and lost wages and income taxes. We find that the total costs of this proposition will be about \$90 million per year, plus up to \$152.4 million in construction costs.

However, the lost tax revenue and increased spending are secondary to the financial damage done to incarcerated people and their families by increasing mandatory sentencing. Though it is difficult to disconnect the financial effects of incarceration from the effects of poverty, the [Institute for Justice Research and Development at Florida State University](#) estimates that for every dollar spent in corrections costs, incarceration generates an additional ten dollars in social costs.



The loss of freedom, disconnection from loved ones, and exposure to violence have lasting impacts. People leaving prison struggle to reintegrate and find stability, facing barriers to housing, employment, and community. This doesn't only affect individuals who have been in prison: the children of incarcerated parents suffer socially, emotionally, and academically.



\*It should be noted that the measure will apply to offenders convicted after it passes, so its fiscal impacts will not be realized before the mid 2030s.

Proponents of Proposition 128 will argue that the increased severity of punishment for these crimes — increasing mandatory time served from 75% to 85% of one’s sentence — would deter further crimes from happening. However, the [United States Department of Justice](#) published a memo in 2016, based on years of quantitative criminology research, which found that increasing the severity of punishment for crimes has little to no effect on deterrence. In fact, harsher punishments and longer sentences can actually have the opposite [effect](#). Suspended sentences have actually been [shown to reduce rates of recidivism](#).

The [U.S. Department of Justice](#) argues that it is not the severity of the punishment, but rather the likelihood of being caught, that reduces crime.

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## COSTS OF PROPOSITION 128

### 1- Additional Months Served Under Proposition 128

Under the current statute, C.R.S. 17-22.5-303.3 (1), during the last four complete fiscal years for which the Department has data (FY 2018-19 through FY 2021-22), an average of 263 individuals were convicted each year. These people had an average governing sentence of 8,697 days – about 24 years. Changing the percentage of time served in prison before being eligible for parole from 75% of the sentence to 85% of the sentence would extend their parole eligibility date from 18 years to 20.4 years (about 30 additional months, or 2.4 years).

An average of 186 people per year were convicted to DOC under sex assault crimes, with an average governing sentence of 4,288 days – almost 12 years. Adding these individuals to the new requirement that 85% of prison sentences be served before parole eligibility is met would increase the average length of parole eligibility from 9 years to 10.2 years (about 15 additional months).

### 2- Operating Costs

State-run prisons cost \$56,766 per offender per year, so the additional operating costs under Proposition 128 will be about **\$48.5M per year**.

\* Data from Colorado DOC

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263 convicts per year * <b>2.4 additional years</b> * \$56,766	=	<b>\$35.8 Million per year</b>
186 convicts per year * <b>1.2 additional years</b> * \$56,766	=	<b>\$12.7 Million per year</b>
Total	=	<b>\$48.5 million per year</b>

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Total appropriated funds to DOC in 2022-23 FY was \$995 million. **Proposition 128's passage would increase DOC spending by 5%.**

### 3- Capital Construction Costs

Under Proposition 128, more people would be in prison, requiring more beds. Using data from Colorado Legislative Council, estimated capital construction costs for each additional prison bed is calculated at \$178,4112 per bed. Statute requires the Department of Corrections to calculate construction costs whether or not there are vacant beds, so we do not include any subtracting for current vacant beds. The number of additional beds needed is calculated by multiplying the number of new commitments per year by the average length of stay under current law and under Proposition 128, and calculating the difference between the two:

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263 convicts per year * <b>2.4 additional years</b> ~ <b>631 Beds</b>		
	+	
186 convicts per year * <b>1.2 additional years</b> ~ <b>223 Beds</b>		= <b>854 additional beds</b>

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854 additional beds * \$178,4112	=	<b>\$152.4 million</b>
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According to the Legislative Council, increased appropriations for prison construction, expansion, or renovation are at the discretion of the General Assembly.\*

### 4- Lost Wages

The average percentage of Colorado parolees employed between 2021 and 2023 is about [70%](#). Assuming they are employed full time at minimum wage jobs, we can estimate the lost wages.

\*2023 fiscal analysis of bills with criminal justice system, CO legislative council

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3.6 additional years \* 449 individuals/year \* 0.7 = **1,131 potential people employed**  
1,131 \* 14.42 per hour minimum wage = **\$16,316 in potential wages per hour worked**  
\$16,316 \* 2080 hours worked per year = **\$33.95 million per year in lost wages**

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## 5- Lost Taxes to State and Local Governments

In Colorado, those who make \$40,000 a year or less, spend about [9%](#) of their income in state and local taxes. Lost wages of \$33.95 million means state and local governments will lose \$3.05 million in tax revenue.

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\$33.95 million \* 0.09 = **\$3.05 million per year**

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## 6- Healthcare Costs

In FY 2015, Colorado spent \$6,641 per inmate in healthcare [costs](#). [“Most states estimate that healthcare for an elderly prisoner costs roughly two to three times that for a younger prisoner.”](#) The prisoners impacted by I- are facing long sentences and are likely to be elderly when they become eligible for parole, so we estimate that additional healthcare costs for these prisoners will be about \$11 million (assuming healthcare costs for elderly prisoners are double the average cost of \$6,641).

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854 additional prisoners per year \* 2 \* \$6,641 = **\$11.3 million per year**

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Since Medicare eligibility starts at age 65, qualifying parolees would gain access to federal health insurance coverage rather than remaining on state prison systems' healthcare plans. Shifting this aging demographic to Medicare could alleviate the rising financial burden on the state.

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## 7- Parole Cost Savings

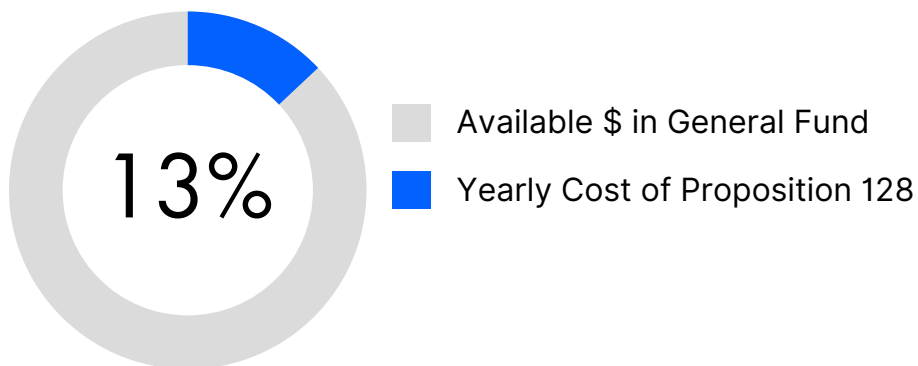
The cost to supervise an offender on parole is \$21.23 per day, or \$7,749 per year, so reducing the number of convicts eligible for parole will save the state the costs of hiring parole officers, resulting in savings of \$6.6 million a year:



263 convicts per year * 2.4 additional years * <b>\$7,749</b>	=	\$4.9 million
		+
186 convicts per year * 1.2 additional years * <b>\$7,749</b>	=	\$1.7 million
<b>Total parole savings:</b>		<b>\$6.6 million per year</b>

## 8- Total Cost

The total cost of Proposition 128 would likely be around \$90 million per year, plus up to \$152.4 million in one-time construction costs. Subtracting the \$33.95 million in lost wages, the total cost to the state budget will be \$56.2 million. For context, the General Fund had \$432 million to spend above operational costs and reserve requirements in 2023. Proposition 128 would spend about 13% of the General Fund's extra revenue.



Without increasing taxes or fees to pay for this measure, Proposition 128 takes money away from other General Fund priorities; all for a policy that will [likely not have its intended effect](#) without additional spending on better enforcement of crimes covered under the proposition.

\*It should be noted that the measure will apply to offenders convicted after it passes, so its fiscal impacts will not be realized before the mid 2030s.

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## CONCLUSION

Mandatory sentencing laws, especially in states with constitutional limits like the Taxpayer's Bill of Rights (TABOR), can exacerbate the problem of overcrowded prisons and create significant challenges in maintaining safe and adequate correctional facilities.

Colorado's limited budgetary flexibility may hinder our ability to adequately fund the construction of new prisons or the maintenance of existing facilities, resulting in deteriorating prison conditions, compromising the safety and well-being of both inmates and correctional staff. This could also divert funds away from essential programs aimed at rehabilitation, education, and mental health services for inmates. A lack of investment in these areas can perpetuate a cycle of recidivism.

Additionally, TABOR's limits on debt also leads to more complicated financing for prison construction: TABOR prohibits general obligation bonds without prior voter approval, making other long-term financing vehicles like Certificates of Participation often necessary to finance the construction, maintenance and improvement of prisons.

Passing Proposition 128 in Colorado will compromise the overall effectiveness of both the criminal justice system and other state programs that support diverse and changing communities.

