

**FINAL
FISCAL NOTE**

Drafting Number: LLS 11-1022	Date: June 28, 2011
Prime Sponsor(s): Sen. Guzman; King S. Rep. Kerr J.; Ferrandino	Bill Status: Signed into law Fiscal Analyst: Kerry White (303-866-3469)

TITLE: CONCERNING GRAFFITI.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue Multiple Cash Funds	Reduction - See State Revenue section.	
State Expenditures	Reduction - See State Expenditures section.	
FTE Position Change		
Effective Date: The bill was signed into law by the Governor on June 2, 2011, and takes effect on August 10, 2011, if no referendum petition is filed. As House Bill 11-1032 became law, Section 1 of the bill applies, but Section 2 does not.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: See Local Government impact section.		

Summary of Legislation

This bill changes the manner in which multiple offenses for defacing property may be treated. Specifically, it allows damages from two or more offenses committed within six months to be aggregated and charged as a single count. If aggregate damages exceed \$500, it is a class 1 misdemeanor and offenses are subject to a mandatory minimum of fine of \$750 upon conviction. The bill also grants the court discretion to impose alternatives in sentencing, including restorative justice, and to suspend all or part of the fine for successful completion of the alternative sentence.

Additionally, the Colorado Department of Transportation (CDOT) is authorized to enter into memoranda of understanding (MOUs) with local governments where CDOT property is located. Such MOUs would clarify that if a local government chooses to remove graffiti from CDOT property, it does so at its own expense.

Background

Portions of this bill were conditional upon the enactment of HB11-1032, which allows courts to sentence suitable juvenile and adult criminal defendants to participation in restorative justice victim-offender conferences as an alternative sentencing option or as a condition of probation. This bill was signed into law by the Governor on June 7, 2011, and takes effect August 10, 2011, if no referendum petition is filed.

State Revenue

This bill may reduce state revenue beginning in FY 2011-12. The court may impose alternative sentences for persons convicted of defacing property, and suspend all or part of the mandatory minimum \$750 fine upon its successful completion. As the amount of reduced revenue is conditional upon based upon future actions of courts, no estimate has been provided, although the fiscal note assumes any such reduction will be minimal.

State Expenditures

Beginning in FY 2011-12, this bill may reduce state expenditures, as discussed below.

Colorado Department of Transportation. The bill allows the CDOT to enter into MOUs with local governments to clarify that if a local government chooses to remove graffiti from CDOT property, it does so at its own expense. This provision is anticipated to have a minimal impact on the CDOT. CDOT costs are paid with State Highway Funds, which are continuously appropriated to the department, and this provision will not result in a change in appropriations.

Judicial branch. By allowing certain property damage offenses to be aggregated into a single count, this bill could reduce workload within the courts. In addition, the bill grants courts the authority to impose alternatives in sentencing, which could reduce the number of individuals incarcerated in county jails. The state currently reimburses county jails a daily rate of \$50.44 to house state inmates. Because it is not possible to determine how often alternative sentences will be imposed, no estimate in the reduction in state expenditures has been included. The fiscal note assumes any such impact to be minimal, but that any significant changes will be addressed through the annual budget process.

Local Government Impact

To the extent that local governments enter into MOUs with the CDOT and CDOT property is defaced with graffiti, their costs for graffiti removal could increase. This amount has not been estimated.

In addition, the current penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. The bill grants the courts discretion to impose alternatives in sentencing and it is possible that less individuals will be incarcerated in county jails and some individuals will not pay the full fine. To the extent that individuals are sentenced to alternative programs and have their fines reduced, this will reduce both revenue and costs for local governments. The fiscal note assumes any such impact will be minimal.

Departments Contacted

Corrections

Human Services

Judicial

Transportation