

Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number: LLS 11-0815
Prime Sponsor(s): Rep. McCann
 Sen. Mitchell

Date: March 3, 2011
Bill Status: House Judiciary
Fiscal Analyst: Kirk Mlinek (303-866-4782)

TITLE: CONCERNING AN EXPANSION OF THE CIRCUMSTANCES IN WHICH A COURT MAY ORDER FURTHER RESTRICTIONS AS CONDITIONS OF A PROTECTION ORDER AGAINST A DEFENDANT.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures		
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: None.		
Local Government Impact: None.		

Summary of Legislation

The bill expands to all crimes subject to the Victims' Rights Act the courts' discretion to add the following restrictions, currently only available in domestic violence cases, to mandatory protection orders issued to defendants at the time of arraignment or first court appearance:

- to stay away from the victim's home and other locations where the victim may be found;
- to not have contact or direct or indirect communication with the victim;
- to not possess or control firearms or other weapons;
- to not possess or consume alcohol or controlled substances; and
- other orders deemed appropriate to protect the victim's safety.

Under current law, a mandatory protection order is issued by the court in a criminal proceeding. The order restrains a person from harassing, molesting, intimidating, retaliating against, or tampering with the defendant or any witness to the acts charged. The order stays in effect until the defendant is acquitted or until the defendant is convicted and completes his or her sentence.

Table 1 lists the crimes that fall under the Victim Rights' Act and that will be subject to a court's order of additional restrictions upon enactment of the bill.

Table 1. Crimes Covered by the Victims' Rights Act		
Murder in the 1st and 2nd degree	Sexual assault by one in a position of trust	Careless driving
Manslaughter	Sexual assault on a client by a psychotherapist	Stalking
Criminally negligent homicide	Robbery	Failure to stop at the scene of an accident
Vehicular homicide	Aggravated robbery	Any criminal attempt, any conspiracy, any criminal solicitation, and any accessory to crime
Assault in the 1st, 2nd, and 3rd degree	Aggravated robbery of controlled substances	Retaliation against a witness or victim
Vehicular assault	Incest	Intimidation of a witness or victim
Menacing	Aggravated incest	Aggravated intimidation of a witness or victim
Kidnaping in the 1st and 2nd degree	Child abuse	Tampering with a witness or victim
Sexual assault	Sexual exploitation of children	Indecent exposure
Sexual assault in the 1st, 2nd, and 3rd degree	Crimes against at-risk adults or at-risk juveniles	Violation of a protection order against a person charged with certain sex crimes (4 classes)
Unlawful sexual contact	Domestic violence (3 classes)	
Sexual assault on a child	Bias-motivated crimes	

State Revenue

A violation of a mandatory protection order of the type covered by the bill is a class 1 misdemeanor, the fine for which ranges from \$500 to \$5,000. In FY 2009-10, the Office of the State Public Defender handled 52,467 pretrial and trial cases. Associated with these cases were more than 3,800 protection order violations (mandatory and nonmandatory). Although the court already exercises broad authority when ordering defendants to refrain from certain activities, expanding the restrictions that can be added to include all victims' rights crimes will increase the number of mandatory protective orders issued. This fiscal note assumes that there will be a corresponding increase in the number of protective order violations, resulting in additional revenue to the state. The specific amount of additional revenue has not been estimated.

State Expenditures

Office of the State Public Defender. The state's public defender provides legal representation to indigent clients who are charged with a crime. As noted in the State Revenue section, the number of mandatory protective orders issued will increase under the bill. As a result, the public defender's office will see a corresponding increase in the number of violations of mandatory protection order cases. The fiscal note identifies this increase as a state fiscal impact. The specific amount of the impact has not been estimated and it is assumed that the public defender will absorb the increase within existing appropriations.

State Appropriations

No appropriation is required to implement the bill.

Departments Contacted

District Attorneys

Judicial

Corrections

Public Safety

Sheriffs