

**STATE and LOCAL
FISCAL IMPACT**

Note: This fiscal note is written pursuant to Joint Rule 22 (b)(c) and reflects strike below Amendment L.001.

Drafting Number: LLS 11-0401
Prime Sponsor(s): Rep. Lee

Date: February 7, 2011
Bill Status: House Judiciary
Fiscal Analyst: Jessika Shipley (303-866-3528)

TITLE: CONCERNING RESTORATIVE JUSTICE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures		
General Fund	\$73,420	\$67,184
FTE Position Change	0.5 FTE	0.5 FTE
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: The Judicial Branch requires a General Fund appropriation of \$73,420 and 0.5 FTE for FY 2011-12.		
Local Government Impact: Possible increase		

Summary of Legislation

With the adoption of strike below amendment L.001, this bill 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. Defendants charged or convicted of a sex offense or a domestic violence offense are not eligible for participation. In no case can a victim ever be required to participate in such a conference.

Juveniles. If a district attorney files a delinquency petition against a juvenile in a jurisdiction where restorative justice programs are available, the district attorney may choose to determine whether the juvenile is suitable for participation in a restorative justice victim-offender conference. In making such a determination, the district attorney is required to consider whether the juvenile accepts responsibility for, expresses remorse for, and is willing to repair the harm caused by his or her actions and the juvenile's parent or legal guardian is willing to support the juvenile in the process. Successful participation in a restorative justice victim-offender conference may be offered to suitable juveniles in lieu of having charges officially filed. Juvenile defendants must be advised of the possibility of participation in restorative justice practices at the juvenile's first court appearance and again at the entry of a guilty plea.

Prior to sentencing a juvenile, the court may order an evaluation to determine whether the juvenile is suitable for participation in a restorative justice victim-offender conference. The court may order a suitable defendant to participate in such a conference in lieu of or in combination with any other sentence allowed by law. Juvenile defendants, unless indigent, are required to pay a fee of \$40 for a presentence assessment of suitability and \$125 for participation in a restorative justice victim-offender conference.

School districts and the state charter school institute are encouraged to develop and utilize restorative justice practices as part of the disciplinary programs of each school. Further, school districts are encouraged to implement training and education in the principles and practices of restorative justice.

Adults. All adult defendants must be advised at any hearing requiring their physical presence that restorative justice practices may be a part of the sentence. This requirement applies for all felonies and class 1 misdemeanors that are not traffic-related and any other offense for which the maximum penalty is more than one year imprisonment. The court may order suitable defendants to participate in a restorative justice victim-offender conference as an alternative sentencing option or as a condition of parole. If such participation is ordered and the defendant is not indigent, the defendant is required to pay a fee of \$125 for the costs associated with the conference.

The Department of Corrections is required to establish a pilot program to facilitate victim-offender dialogues that may be requested by victims with offenders who are in the custody of the department. The department is required to develop policies and procedures for the dialogues and to use qualified and experienced volunteers to arrange, coordinate, and facilitate the dialogues. The extent of the pilot program is to be based on the availability of qualified and experienced volunteers to staff the program. Dialogues will only be arranged in situations where it is determined that the dialogue would be safe and the offender agrees to participate.

Finally, the section of current law concerning the rights of crime victims is expanded to include the right to be informed about the availability of restorative justice practices and the possibility of a victim-offender conference. District attorneys are required to make such an advisement to victims.

State Revenue

The bill requires juvenile and adult defendants to pay a fee when ordered to participate in restorative justice victim-offender conferences. The bill is silent on the mechanics of the collection of such a fee. As such, it is assumed that defendants will pay the fees directly to the restorative justice vendor or provider for the costs associated with assessment of suitability for and participation in conferences.

State Expenditures

Judicial Branch. Adding a new advisement for all adult offenders will increase costs for the branch by \$73,420 and 0.5 FTE in FY 2011-12 and \$67,184 and 0.5 FTE each year thereafter. The bill requires defendants in all non-traffic-related felony and class 1 misdemeanor cases and all cases for which the maximum penalty is more than one year imprisonment to be advised by the court that restorative justice practices may be a part of the sentence. This new advisement is expected to apply to approximately 78,000 cases each year. An estimated 15 percent of those cases are currently being advised about restorative justice. Therefore, the trial courts will have to provide approximately 66,300 new advisements at an estimated one minute each or 1,105 hours total each year. This generates a need for 0.5 FTE judicial officer time.

Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$47,500	\$63,334
FTE	0.5	0.5
Operating Expenses (Magistrate)	\$3,850	\$3,850
Furniture and Chambers	\$4,705	\$0
Computers and Software	\$1,665	\$0
Courtroom	\$15,000	\$0
Conference Room	\$700	\$0
TOTAL	\$73,420	\$67,184

As the bill does not address the issue of what agency or other entity is responsible for assessing suitability for participation in restorative justice practices, the fiscal note assumes such assessments will be conducted by the restorative justice vendor or provider and not by the Judicial Branch.

Department of Corrections (DOC). The DOC attempted to establish a restorative justice program beginning in 2001 with participation in a multi-agency committee to study the development and implementation of a statewide victim-offender dialogue program. A number of state agencies and victim advocacy groups were involved and provided extensive input. In the fall of 2002, the department began the development of such a program using volunteers to staff it. Due to the extensive travel required by the volunteers to correctional facilities across the state and the lack of funding to reimburse for expenses such as fuel, mileage, food, and lodging, the program ended before it could begin. Absent a funding source for such expenses, the fiscal note assumes adequate numbers of volunteers will not be available to staff the program and the program will not be implemented.

In the event that enough volunteers are found who are willing forgo reimbursement for travel expenses, in addition to forgoing any personal income for the time period during which volunteer activities take place, it is expected that the DOC will require an additional program coordinator (General Professional IV) and an administrative assistant to provide recruitment, training, and general administration for the program. The General Fund cost for these 2.0 FTE would be \$90,017 in FY 2011-12 and \$106,157 in each year thereafter.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB 11-1032*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$3,550	\$3,550
Supplemental Employee Retirement Payments	\$2,084	\$3,274
TOTAL	\$5,634	\$6,824

**More information is available at: <http://colorado.gov/fiscalnotes>*

Local Government Impact

The bill may increase costs for district attorneys to the extent that they choose to determine whether juvenile defendants are suitable for restorative justice practices. However, this is only relevant in jurisdictions where restorative justice practices are available, which is relatively rare in Colorado. Additionally, district attorneys are required to provide all crime victims with information about the availability of restorative justice practices and the possibility of a victim-offender conference.

State Appropriations

The Judicial Branch requires a General Fund appropriation of \$73,420 and 0.5 FTE for FY 2011-12.

Departments Contacted

Corrections

Education

Human Services

Judicial