

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated February 7, 2011)

Drafting Number: LLS 11-0401

Date: March 29, 2011

Prime Sponsor(s): Rep. Lee

Bill Status: House Appropriations

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TITLE: CONCERNING RESTORATIVE JUSTICE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures General Fund	See State Expenditures section.	
FTE Position Change		
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: None required		
Local Government Impact: Possible increase		

Summary of Legislation

This bill, *as amended by the House Judiciary Committee*, 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 for a sex offense, a domestic violence offense, stalking, or violation of a protection order 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, at the request of the victim, 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. If the court orders an assessment or participation in a restorative justice victim-offender conference, the juvenile is required to pay a fee of no more than \$40 for a presentence assessment and no more than \$125 for participation in a conference, based on a sliding scale.

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. The court may advise any adult defendant in a case involving a felony, a class 1 misdemeanor that is not traffic-related, or any other offense for which the maximum penalty is more than one year imprisonment that restorative justice practices may be a part of the sentence. 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 probation. If such participation is ordered, the facilitator of the conference will provide his or her services for a fee of no more than \$125, based on a sliding scale. Statements made during the conference are confidential and may not be used against the defendant.

The Department of Corrections (DOC) is authorized to establish a pilot program, when funds become available, to facilitate victim-offender dialogues. The dialogues may requested by victims with offenders who are in the custody of the department. After such a program is established, the department may develop policies and procedures for the dialogues using qualified and experienced volunteers to arrange, coordinate, and facilitate the dialogues. Any volunteers would be required to complete training developed by the DOC. The DOC is prohibited from compensating or reimbursing volunteers or victims for any expenses or otherwise incurring any expenses to establish or operate 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 presentence assessments and restorative justice victim-offender conferences. The bill requires such fees to be paid directly to the assessor or the conference facilitator. As such, state revenues will not be affected.

State Expenditures

Judicial Branch. The bill requires the court to advise juvenile defendants, both at the first court appearance and at sentencing, of the possibility of participation in restorative justice practices. The fiscal note assumes there will be approximately 16,500 new advisements of one minute each, which can be absorbed within existing resources.

Department of Corrections. The bill authorizes the DOC to establish a victim-offender dialogue pilot program when funds become available. It also prohibits the DOC from incurring any expense to establish or operate the program. As such, the bill is assessed as having no fiscal impact for the DOC.

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. 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.

Departments Contacted

Corrections

Education

Human Services

Judicial