

Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number: LLS 09-0439
Prime Sponsor(s): Rep. Lambert
 Sen. Schultheis

Date: February 10, 2009
Bill Status: House Judiciary
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TITLE: CONCERNING CHANGES TO CRIMES RELATED TO UNLAWFUL TREATMENT OF PERSONS TO ALIGN WITH SIMILAR LAW PROVISIONS, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue Cash Funds - Fines Collection Cash Fund	Potential Increase	
State Transfers or Diversions Transfer from the General Fund to the Capital Construction Fund	(\$113,080)	
State Expenditures General Fund Cash Funds - Capital Construction Fund appropriation to the Corrections Expansion Reserve Fund	\$113,080	\$28,199
FTE Position Change		
Effective Date: Upon signature of the Governor or upon its becoming law without his signature		
Appropriation Summary for FY 2009-2010: See State Appropriations section		
Local Government Impact: None		

Summary of Legislation

This bill modifies existing laws regarding human trafficking to:

- define an adult as a person who is 18 years or older;
- define a child as a person who is under the age of 18;
- increase the penalty for trafficking in children from a class 3 felony to a class 2 felony; and
- remove the requirement that money or a thing of value must be exchanged in order to commit smuggling of a human.

Additionally, the bill adds the following elements to the crime of coercion of involuntary servitude:

- threats of serious harm or physical restraint against that person or another person;

- a scheme, plan, or pattern intended to cause a person to believe that the person or another person will suffer serious harm or physical restraint if labor or services are not performed; and
- abuse or threatened abuse of the law or legal process.

State Revenue

A person convicted of the crimes mentioned in this bill may be subject to a fine ranging from \$1,000 to \$1,000,000. Fine revenue is deposited into the Fines Collection Cash Fund, which is administered by the Judicial Branch. Fines are imposed at the discretion of the court, but can be difficult to collect. Given the relatively small number of offenders who are expected to be convicted of this crime, the fiscal note anticipates less than \$5,000 in fine revenue per year.

State Transfers or Diversions

Pursuant to the requirements of Section 2-2-703, C.R.S., and Section 17-1-116, C.R.S., this bill transfers \$113,080 from the General Fund to the Capital Construction Fund in FY 2008-09, then appropriates the money to the Corrections Expansion Reserve Fund. Thus, this amount will not be available for General Fund appropriations. For a further explanation of this transfer and appropriation, see the section related to the five-year impact on correctional facilities.

Based on the December 2008 Legislative Council Staff revenue forecast, revenue collections for FY 2009-10 will be insufficient to fully fund the 6 percent spending limit. Therefore, the increased funding required by this bill will further reduce the amount of money available for General Fund appropriations in the state's operating budget. For FY 2009-10, the amount is \$113,080.

State Expenditures

Judicial Branch. The Judicial Branch will not require additional appropriations to implement the provisions of this bill in FY 2009-10 or FY 2010-11. There were 27 cases filed in calendar year 2008 in which one of the offenses mentioned in the bill was charged. The bill expands the offenses to include additional means for committing the crimes. However, even the expanded potential number of cases will not have a significant impact on the workload of the trial courts or probation services and may be absorbed within current resources.

Department of Corrections (DOC). The bill will increase costs to the DOC by **\$113,080 in FY 2009-10 and \$28,199 in FY 2010-11. The five-year costs associated with this bill are \$225,876 and are detailed in Table 1.** Historically, only 3 offenders have been sentenced to DOC for the crime of trafficking in children. Expanding the definition of a child and increasing the penalty for the offense are not expected to result in new incarcerations. Removing the requirement that something of value be exchanged in order to commit smuggling of humans is expected to result in one additional class 3 felon every five years. The average length of stay for a class 3 felony is 77.3 months.

Five-Year Fiscal Impact on Correctional Facilities

Section 2-2-703, C.R.S., specifies that no bill can be passed by the General Assembly which results in a net increase in periods of imprisonment in *state correctional* facilities unless it contains an appropriation of money sufficient to cover the increased capital construction costs and operating costs in each of the first five fiscal years of the bill. Sections 17-1-102, 104.9, and 105.5, C.R.S., authorize the department to permanently place inmates classified as medium custody and below in private contract prisons. Inmates classified higher than medium custody cannot be placed in private contract prisons, except under "correctional emergency" conditions. *The fiscal note assumes that the new inmates identified in this bill will be allocated between state correctional facilities and private contract prisons according to historical patterns.*

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$150,773 per inmate bed. Operating costs are \$83.25 per bed per day or \$30,386 per bed per year. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentencing. If an inmate is placed in a private contract prison, the state incurs no additional capital construction costs; however, the state pays a rate of \$59.28 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,637 per private prison bed per year. Departmental data indicates that 25 percent of class 3 felonies are housed in private prisons, and both the construction and operating costs presented in Table 2 have been prorated accordingly.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2009-10	0.0	\$113,080	\$0	\$113,080
FY 2010-11	0.0	\$0	\$28,199	\$28,199
FY 2011-12	0.0	\$0	\$28,199	\$28,199
FY 2012-13	0.0	\$0	\$28,199	\$28,199
FY 2013-14	0.0	\$0	\$28,199	\$28,199
Total		\$113,080	\$112,796	\$225,876

State Appropriations

For FY 2009-10, this bill requires a transfer of \$113,080 from the General Fund to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to the Department of Corrections from FY 2010-11 through FY 2013-14. These costs are identified in Table 1.

Departments Contacted

Corrections District Attorneys Judicial Law Public Safety