

**FINAL
FISCAL NOTE**

Drafting Number: LLS 09-0701**Date:** June 29, 2009**Prime Sponsor(s):** Sen. Morse; Carroll M.
Rep. Levy; Merrifield**Bill Status:** Signed into Law**Fiscal Analyst:** Jessika Shipley (303-866-3528)

TITLE: CONCERNING CRIMINAL LAW, AND, IN CONNECTION THEREWITH, CHANGING THE PROVISIONS RELATED TO LEGAL REPRESENTATION OF INDIGENT DEFENDANTS FOR CERTAIN MISDEMEANOR CASES; CHANGING THE OFFENSE LEVEL OR SENTENCING OPTIONS FOR SELECT NONVIOLENT OFFENSES, PROPERTY OFFENSES, AND DRUG OFFENSES; CHANGING THE PRESUMPTIVE SENTENCING RANGES FOR CERTAIN FELONY OFFENSES; REPEALING CERTAIN EXTRAORDINARY RISK SENTENCING PROVISIONS; MAKING CHANGES TO THE HABITUAL OFFENDER STATUTE; AND ALLOWING FOR CERTAIN SENTENCING TIME CREDITS FOR CERTAIN OFFENDERS.

Summary of Legislation

This bill directs the Colorado Commission on Criminal and Juvenile Justice to use empirical analysis and evidence-based data to study sentences in Colorado. The bill provides suggestions about areas related to sentencing the commission may study, including but not limited to the following:

- a statewide Department of Corrections (DOC) correctional facility management plan and potential DOC correctional facility bed limitations;
- sentences related to the offense of driving under restraint and drug crimes and whether to change those sentences;
- whether parole should be included in an offender's sentence;
- alternatives to incarceration for nonviolent first-time offenders; and
- the consequences and efficacy of mandatory minimum sentences and other provisions that limit judicial discretion in the sentencing process.

The bill also permits the commission to study the impact of incarceration on crime rates. The commission is required to update the Governor, the Attorney General, the Chief Justice of the Colorado Supreme Court, and the Executive Committee of the Legislative Council by November 30, 2009, as to its findings, recommendations, and proposed plan for the ongoing study of sentencing reform. The commission is also required, by February 1, 2010, to provide the Executive Committee of the Legislative Council with specific recommendations regarding sentencing practices. The bill was signed by the Governor and became law on June 1, 2009.

Assessment

The Colorado Commission on Criminal and Juvenile Justice was created in 2007 and the Division of Criminal Justice (DCJ) in the Department of Public Safety was required to provide resources for data collection, research, analysis, and publication of the commission's findings and

reports. The fiscal note assumes that the commission will set priorities for study areas and redirect the work of the existing commission staff in order to meet those priorities. As such, the provisions of the bill may be accomplished within existing resources and it is assessed as having no fiscal impact.

Departmental Differences

Department of Corrections. The DOC indicated a need for an additional contract staff person to assist in data extraction, review of analyses, and interpretation of data. The contractor would be required for the period of July 1, 2009 through January 31, 2010, and would be paid an hourly rate of \$35. The contractor would be provided a computer and software at a cost of \$1,230. The total cost for the contract position is \$40,430.

The bill requires the commission to gather and analyze data about sentencing in Colorado. The fiscal note assumes that the Office of Planning and Analysis in the DOC has adequate staffing resources to meet the requirements of the bill. The office exists within the DOC to provide research, information, and data analysis services. The office monitors population projections, analyzes legislative impact studies, and oversees administrative regulations. The office also conducts program and system evaluations, as directed by statute or executive priority.

Department of Public Safety. The department indicated that the bill requires additional General Fund expenditures of \$184,125 and 2.2 FTE in FY 2009-10 and \$167,656 and 2.4 FTE each year thereafter. The needs occur in the DCJ and correspond to various complex research and analysis tasks laid out in the bill.

The DCJ is currently appropriated 3.0 FTE dedicated to staffing the commission. The division provides a total of nine full and part time staff members to the commission, most of whom are research and statistical analysts. The bill does not require the commission to study every sentencing area included in the bill, but rather gives the commission options. The fiscal note does not reflect the department's request for additional FTE because it assumes that current personnel resources in the DCJ will be sufficient to carry out the responsibilities imposed by the commission.

Departments Contacted

Corrections
Law

District Attorneys
Public Safety

Judicial