

*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL  
 FISCAL IMPACT**

**Drafting Number:** LLS 09-0833  
**Prime Sponsor(s):** Rep. Nikkel  
 Sen. Renfroe

**Date:** March 18, 2009  
**Bill Status:** House Health and Human Services  
**Fiscal Analyst:** Bill Zepernick (303-866-4777)

**TITLE:** CONCERNING THE PROTECTION OF YOUTH IN JUVENILE FACILITIES IN THE DEPARTMENT OF HUMAN SERVICES.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
<b>State Revenue</b>		
Cash Funds		
Juvenile Facility Telephone Hotline Fund		
Fines Collection Cash Fund	<\$5,000	<\$5,000
<b>State Expenditures</b>		
<u>Total</u>	<u>\$837,820</u>	<u>\$705,164</u>
General Fund	832,005	699,350
Federal Funds	5,814	5,814
<b>FTE Position Change</b>	6.5 FTE	7.1 FTE
<b>Effective Date:</b> September 1, 2009, unless a referendum petition is filed.		
<b>Appropriation Summary for FY 2009-2010:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

The bill sets forth procedures for reporting incidents of abuse or neglect at juvenile detention facilities operated by the Department of Human Services (DHS). The DHS is required to establish a telephone hotline for juveniles and their families to call to report injuries or abuse, and promulgate rules for implementing the hotline. The bill creates the Juvenile Facilities Telephone Hotline Fund, which shall consist of gifts, grants, and donations and any money appropriated by the General Assembly.

A written incident report is required to be filed if a juvenile claims to be injured in any of the following ways:

- child abuse or neglect;
- physical force or restraint by an employee; and
- an assault by a person who is not an employee who is facilitated by an employee.

The incident report is to be filed with the DHS and the local law enforcement agency, and entered into the DHS case management data system. The incident report shall be completed by the end of the employee's shift and access to the report limited to supervisor-level employees. The report must be retained by the DHS for five years. The bill specifies procedures for amending an incident report and accessing a report in the case management system. An employee who was not involved in the reported incident is required to inform the juvenile of his or her rights regarding the incident and to ask if he or she would like to file a formal complaint. Any person violating these provisions is guilty of a class 3 misdemeanor, is liable for damages caused by the violation, and is subject to administrative action by the DHS.

The DHS is required to report annually to the General Assembly concerning compliance with the incident reporting requirements and the implementation and operation of the telephone hotline. The DHS' website is to include the number of complaints received monthly by the hotline, and break down these amounts by facility name and report the total for each facility.

## **State Revenue**

***Gifts, Grants, and Donations.*** The bill allows the DHS to accept gifts, grants, and donations for deposit in the Juvenile Facility Telephone Hotline Fund to fund the juvenile abuse hotline created by the bill. No such moneys have been identified at this time.

***Fines.*** The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. According to Section 18-1.3-501, C.R.S., the penalty for a class 3 misdemeanor is 0 - 6 months imprisonment in a county jail, a fine of \$50 - \$750 fine, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined.

## **State Expenditures**

The bill increases costs to the DHS by \$837,820 and 6.5 FTE in FY 2009-10 and by \$705,164 and 7.1 FTE in FY 2010-11. These costs are incurred in the Division of Youth Corrections and the Division of Child Welfare within the DHS. Funding is from the General Fund, with the exception that \$11,628 of Medicaid funding, split evenly between General Fund and federal funds, is reappropriated to the DHS from the Department of Health Care Policy and Financing (DHCPF). Table 1 provides an overview of the costs under the bill.

<b>Table 1. Expenditures in the Department of Human Services Under HB09-1306</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Personal Services	\$334,431	\$364,834
FTE	6.5	7.1
Contract Provider Services	321,508	321,508
Information Technology Systems	155,400	2,000
Operating Expenses and Capital Outlay	24,979	9,312
Legal Services	1,502	7,510
<b>TOTAL</b>	<b>\$837,820</b>	<b>\$705,164</b>

*Personal Services.* The DHS requires \$334,431 and 6.5 FTE for personal services in FY 2009-10. This amount increases to \$364,834 and 7.1 FTE in FY 2010-11 to reflect full year staffing. Additional staff is required in the Division of Youth Corrections for supervision of juveniles and processing incident reports, and in the Division of Child Welfare for operating the juvenile telephone hotline.

*Youth Corrections Security Officers.* The Division of Youth Corrections requires \$225,826 and 4.7 FTE in FY 2009-10 for security officers in youth corrections facilities. Additional officers are needed because staff time will be spent escorting and supervising individual juveniles who are reporting incidents or accessing the telephone hotline. This occupies officer staff time that would otherwise be spent supervising larger groups of juveniles in the facility. Operating expenses and capital outlay costs for these officers will be \$12,623 in FY 2009-10 and \$7,412 in FY 2010-11.

It is estimated that the division will receive 1,333 reports of abuse and injuries per year at state-run facilities, and each incident report is expected to require 8 hours of officer time for supervising and escorting juveniles and processing reports and files. The number of incident reports is based on approximately 1,500 restraints of juveniles, 400 assaults, and 50 reports of abuse investigated by county departments of social services annually in youth corrections facilities..

*Telephone Hotline Staff.* The Division of Child Welfare requires \$108,606 and 1.8 FTE in the Division of Child Welfare for program staff to operate the incident reporting hotline. The hotline would be operated within the division because it has relevant experience receiving and evaluating reports of child abuse and neglect. The fiscal note assumes that the hotline would be open from 8:00 AM to 5:00 PM, Monday through Friday. The division will have operating expenses and capital outlay costs of \$12,356 in FY 2009-10 and \$1,900 in FY 2010-11 for these new staff.

*Contract Provider Services.* The DHS is anticipated to incur costs of \$321,508 in FY 2009-10 and FY 2010-11 to increase payments to private providers that operate youth corrections facilities. As in state-run facilities, these private providers will incur higher personnel costs supervising and escorting youth who are reporting incidents or accessing the telephone hotline. The Division of Youth Corrections is therefore required to adjust the daily bed rate in the providers' contracts to reflect the increased staffing costs under the bill. Most of the cost of increasing the daily

bed rate will be paid using General Fund, except that \$11,628 will come from Medicaid funds. It is estimated that the average daily bed rate needs to increase by 0.8 percent (\$1.11) from the current average daily bed rate of \$147 in order for the division's contract providers to meet the requirements of the bill.

**Information Technology Systems.** The DHS will incur costs of \$155,400 in FY 2009-10 to modify its information technology systems. The bill specifies that incident reports, images, and other evidence be stored in the departments case management system TRAILS. It also requires that access to incident reports be restricted to supervisors and that the system retain prior versions of incident reports when amendments are made. System modification costs include:

- \$98,000 for 1,400 hours of programming time at \$70 per hour;
- \$37,100 for 700 hours of testing at a cost of \$53 per hour; and
- \$18,300 for hardware and other development costs.

The DHS will also have costs of \$2,000 per year for electronic record keeping involving phone calls received at the incident reporting hotline. These records would be separate from the TRAILS system.

**Legal Services.** The DHS will require legal services from the Department of Law concerning rule-making for implementing the hotline, and for any administrative action concerning employees involved in incidents reported under the bill. The DHS is estimated to require \$1,502 for 20 hours of legal services in FY 2009-10 and \$7,510 for 100 hours in FY 2010-11, based on the standard rate of \$75.10 per hour.

### **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.

<b>Table 2. Expenditures Not Included Under HB09-1306*</b>		
<b>Cost Components</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$44,499	\$48,607
Supplemental Employee Retirement Payments	9,739	13,567
<b>TOTAL</b>	<b>\$54,238</b>	<b>\$62,174</b>

\*More information is available at: [http://www.state.co.us/gov\\_dir/leg\\_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf](http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2009/comsched/CommonPolicies2009.pdf)

### **Local Government Impact**

The bill will increase costs to local law enforcement agencies where Division of Youth Corrections facilities are located. Incidents reported at youth corrections facilities and through the incident reporting hotline are required to be reported to local law enforcement. It is difficult to predict how these cases will impact costs to local law enforcement agencies because not all reported incidents will warrant further investigation. Many cases involving minor injuries occurring during the restraint of a juvenile will likely be resolved quickly; whereas allegations of excessive force, abuse, or neglect will require more time and resources of law enforcement personnel. For this reason, costs to local law enforcement agencies cannot be quantified.

**Misdemeanor Offense.** The penalty for a class 3 misdemeanor is 0 - 6 months imprisonment in a county jail, a fine of \$50 - \$750 fine, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

### **Department Differences**

The DHS estimates that the costs of the bill will be \$1,025,658 and 7.7 FTE in FY 2009-10 and \$876,432 and 8.5 FTE in FY 2010-11. This includes costs for operating the hotline between the hours of 6:00 AM and 10:00 PM, and for overtime payments that result from training current staff and staff staying longer than their planned shift to process incident reports. However, the fiscal note analysis concludes that some of these costs are not required under the bill. Specifically, the fiscal note assumes that the hotline can be open during standard business hours and that training can be provided without incurring overtime expenses.

### **State Appropriations**

The fiscal note indicates that the Department of Human Services requires total appropriations of \$837,820 and 6.5 FTE in FY 2009-10. Specifically, the following appropriations are required in FY 2009-10:

- \$826,192 from the General Fund to the Department of Human Services. Of this amount, \$1,502 is reappropriated to the Department of Law.
- \$11,628 to the Department of Health Care Policy and Financing (\$5,814 in General Fund and \$5,814 in federal funds). This amount is then reappropriated to the Department of Human Services.

### **Departments Contacted**

Human Services

Judicial

Law