

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

**Drafting Number:** LLS 07-0715

**Date:** February 15, 2007

**Prime Sponsor(s):** Rep. King

**Bill Status:** House Judiciary

**Fiscal Analyst:** Todd Herreid (303-866-2633)

**TITLE:** CONCERNING CHILD ABUSE INVOLVING SELLING DRUGS WITH KNOWLEDGE THAT A CHILD IS PRESENT.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
<b>State Revenue</b> - Fines Collection Cash Fund	Potential increase	Potential increase
<b>Transfers or Diversions</b> General Fund Transfer to Cash Fund	\$0	(\$2,052,706)
<b>State Expenditures</b> General Fund	\$180,000	\$174,167
Corrections Expansion Reserve Fund	\$0	\$2,052,706
<b>FTE Position Change</b>	2.8 FTE	2.8 FTE
<b>Effective Date:</b> July 1, 2007; applies to offenses committed on or after that date.		
<b>Appropriation Summary for FY 2007-2008:</b> See State Appropriations section.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

This bill makes it child abuse to sell drugs in the presence of a child. This is punishable as a Class 3 felony.

**State Revenue**

Under current law, the courts can impose a fine ranging from \$1,000 to \$1 million for felonies, depending on the class of offense committed. This bill may generate additional fine revenue to the degree that a larger fine is imposed for higher class child abuse offenses compared to lower class drug offenses. A minimal increase in fine revenue is anticipated.

**Transfers or Diversions**

Based on the December 2006 Legislative Council Staff revenue forecast, there is enough revenue to fully fund the diversion to the Highway Users Tax Fund (HUTF) under the provisions of SB 97-1 for the next five fiscal years and have additional revenue flow into the General Fund excess

reserve. Under the provisions of HB02-1310, revenue in the General Fund excess reserve is diverted two-thirds to the HUTF and one-third to capital construction. Construction costs for new prison beds are funded outside of the 6 percent appropriations limit. Therefore, the increased expenditure needed to fund this element of the bill would serve to reduce the amount of money available for diversion to the HUTF and to capital construction. In FY 2008-09, a total of \$2.05 million will be transferred, with \$1.37 million coming from the HUTF and \$680,000 coming from capital construction.

## **State Expenditures**

*Department of Corrections.* The bill is expected to increase expenditures for the Department of Corrections (DOC) by \$27.3 million in the next five years. Table 1 shows the five-year expenditure impact for the department. The increase in costs is due to the enhanced sentences for child abuse offenses compared to drug offenses. In FY 2005-06, an estimated 1,240 drug offenders were admitted to DOC for Class 4, 5, or 6 felonies. Since the average age of a new admission to DOC is 33 years old, it is likely that many of these offenders will have children. The fiscal note assumes that 5 percent of the 1,240 drug offenders sentenced to DOC will be charged with a Class 3 felony for child abuse. Thus, the length of stay at DOC will increase for an estimated 62 drug offenders under the bill: 40 offenders charged with a Class 4 felony, 7 offenders charged with a Class 5 felony, and 15 offenders charged with a Class 6 felony.

## **Five-Year Fiscal Impact on Correctional Facilities**

The adoption of this bill will result in a net increase in periods of imprisonment in a state correctional facility. Section 2-2-703, C.R.S., requires that such bills cannot be passed without five years of appropriations for prison bed construction and operating costs. Construction costs are estimated to be \$125,165 per inmate bed. Operating costs are \$75.58 per bed per day or \$27,587 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.

Prison bed construction is funded through a General Fund transfer to the Capital Construction Fund, which is then transferred to the Corrections Expansion Reserve Fund. These appropriations are not subject to the 6 percent statutory General Fund appropriations limit. General Fund appropriations for operating costs are subject to the 6 percent limit.

However, in the event state correctional facilities are at capacity, Sections 17-1-102, 104.9, and 105.5, C.R.S., authorize the Department of Corrections to permanently place state inmates classified as medium custody and below in private contract prisons. The state pays private prisons at a rate of \$51.91 per bed per day or \$18,947 per bed per year.

<b>Table 1 Five-Year Fiscal Impact On Correctional Facilities</b>				
<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2007-08</b>	0.0	\$0	\$0	\$0
<b>FY 2008-09</b>	0.0	\$2,052,706	\$0	\$2,052,706
<b>FY 2009-10</b>	16.4	\$4,631,105	\$452,427	\$5,083,532
<b>FY 2010-11</b>	53.4	\$7,760,230	\$1,473,146	\$9,233,376
<b>FY 2011-12</b>	115.4	\$7,760,230	\$3,183,540	\$10,943,770
<b>Total</b>		<b>\$22,204,271</b>	<b>\$5,109,112</b>	<b>\$27,313,384</b>

**Judicial Branch, State Public Defender.** The bill is expected to increase expenditures for the Public Defender's Office by **\$180,000 in FY 2007-08** and **\$174,167** each year thereafter. The increase is due to the enhanced penalties resulting from the child abuse charge. In FY 2005-06, the Public Defender's Office represented 4,250 drug cases that were Class 4 felonies or lower. Assuming 5 percent of those involve a child on the premises, an estimated 212 cases per year will require additional staff time because of the more severe charge. The office will require an extra 2.8 FTE to accomplish this work, including attorneys, investigators, and support staff.

**Expenditures Not Included**

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

**State Appropriations**

For FY 2007-08, the State Public Defender's Office in the Judicial Branch will require a General Fund appropriation of \$180,000 and authorization for 2.8 FTE. The Department of Corrections will require the five-year appropriation identified in Table 1.

**Departments Contacted**

Judicial                      Corrections                      Public Safety                      Human Services