


Colorado Legislative Council Staff Fiscal Note
STATE and LOCAL
REVISED FISCAL IMPACT
(replaces fiscal note dated February 1, 2008)

Drafting Number: LLS 08-0347
Prime Sponsor(s): Rep. Liston
 Sen. Renfroe

Date: February 15, 2008
Bill Status: House Appropriations
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TITLE: CONCERNING RETALIATION AGAINST A JUDGE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	Potential Increase	
Cash Funds - Fines Collection Cash Fund		
Transfers or Diversions		
Transfer from the General Fund to the Capital Construction Fund	(\$125,165)	\$0
State Expenditures		
General Fund	\$0	\$28,758
Cash Funds - Capital Construction Fund Appropriation to the Corrections Expansion Reserve Fund	125,165	0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: Upon the signature of the Governor, or upon the bill becoming law without his signature.		
Appropriation Summary for FY 2008-2009: See State Appropriations section		
Local Government Impact: See Local Government section		

Summary of Legislation

The bill, *as amended by the House Judiciary Committee*, creates a new class 4 felony if a person threatens, harasses, or harms a judge, municipal judge, administrative law judge, or unemployment insurance hearing officer, or a family member or close associate of a judge, municipal judge, administrative law judge, or unemployment insurance hearing officer in retaliation against the judge, municipal judge, administrative law judge, or unemployment insurance hearing officer.

State Revenue

Under current law, individuals who are convicted of a felony may be required to pay a fine ranging from \$1,000 to \$1,000,000, depending on the class of the crime committed. This bill creates a new class 4 felony, for which the court may impose a fine of \$2,000 to \$500,000. If the court imposes a fine for this felony, the bill will generate additional state revenue. Any new fine revenue will be deposited into the Fines Collection Cash Fund. Fine revenue cannot be estimated because courts have discretion in the imposition of fines.

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 \$125,165 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.

General Fund for Highways and Capital Construction. Based on the December 2007 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, this amounts to \$81,357 from the HUTF and \$43,808 from capital construction.

State Expenditures

Department of Corrections. This bill is expected to increase expenditures for the department by \$491,377 through FY 2012-13. These costs are the direct result of the penalties specified in the bill. The Judicial Branch estimates three to five incidents that fall under the circumstances specified in the bill have been informally reported each year. Individuals who threaten or harass a judge under current law can be charged with an existing, non-specific offense that carries a penalty less severe than that of a class 4 felony. The fiscal note is based on one felony conviction every two years for the crime of retaliation of a judge and assumes that the average length of incarceration for these convictions is 35 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 placed in state correctional facilities, recognizing that some of these inmates could be placed in private contract prisons.*

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$125,165 per inmate bed. Operating costs are \$78.79 per bed per day or \$28,758 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 private prisons at a rate of \$52.69 per bed per day and the department incurs other costs of \$5.91 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,389 per private prison bed per year.

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. Money transferred to the Corrections Expansion Reserve Fund is typically appropriated each year for a variety of capital projects requested by the Department of Corrections; money is not held indefinitely for the construction of a new prison. General Fund appropriations for operating costs are subject to the 6 percent limit.

Table 1. Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2008-09	0.0	\$125,165	\$0	\$125,165
FY 2009-10	1.0	\$0	\$28,758	\$28,758
FY 2010-11	1.0	\$112,649	\$28,758	\$141,407
FY 2011-12	1.9	\$0	\$54,640	\$54,640
FY 2012-13	1.0	\$112,649	\$28,758	\$141,407
Total		\$350,463	\$140,914	\$491,377

Judicial Branch. Given the low number of cases that are expected to arise subsequent to the passage of HB 08-1115 and the possibility that some cases that would have already existed will just be charged under the higher level of offense, the trial courts and the probation department assume that any increase in caseload will be handled within existing resources.

State Public Defender. The Office of the State Public Defender assumes that HB 08-1115 will increase the number of clients serviced by the office, but the increase will be minimal and can be absorbed within existing resources.

Local Government Impact

This bill is expected to result in new admissions to state correctional facilities. To the extent that these facilities are unable to accommodate all of the new inmates, county jails may receive the overflow. Any overflow is expected to be minimal, given the estimated one conviction every two years.

State Appropriations

For FY 2008-09, the bill requires a General Fund transfer of \$125,165 to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to cover capital construction and operating costs in the Department of Corrections for the period from FY 2009-10 to FY 2012-13. These costs are identified in Table 1.

Departments Contacted

Corrections

Judicial

Public Defender