


Colorado Legislative Council Staff Fiscal Note
STATE
REVISED FISCAL IMPACT
(replaces fiscal note dated February 19, 2008)

Drafting Number: LLS 08-0592
Prime Sponsor(s): Rep. Levy
 Sen. Shaffer

Date: February 26, 2008
Bill Status: House Second Reading
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TITLE: CONCERNING JUVENILES AGAINST WHOM CHARGES ARE DIRECTLY FILED IN A DISTRICT COURT.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue General Fund		
State Expenditures General Fund	(\$14,712)	(\$14,712)
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: July 1, 2008		
Appropriation Summary for FY 2008-2009: See State Appropriations section		
Local Government Impact: None		

This fiscal note is revised pursuant to House Rule 32A (c). New language is noted in bold text.

Summary of Legislation

This bill increases the minimum age from 14 to 16 for charging a juvenile as an adult in district court, a process known as "direct filing." The bill removes vehicular homicide and vehicular assault from the list of crimes for which a district attorney can direct file. In cases where a juvenile is charged with a class 1 felony that is pled down to a class 2 felony because the court finds or the prosecution agrees that there is no reasonable likelihood of a conviction on the class 1 felony, the bill permits the court to sentence the juvenile to the youthful offender system (YOS) within the Colorado Department of Corrections (DOC).

The bill allows the court to sentence a juvenile to the juvenile justice system (deferred sentence, juvenile probation, juvenile detention center, etc.) when the judge finds that the interests of the juvenile and the community would be better served by a juvenile disposition of the case.

In some cases, a prosecutor will direct file on a juvenile for an offense that is eligible for direct filing, plus one or more lesser offenses. If the juvenile is only convicted of the lesser offense, the bill requires the court to sentence a juvenile to a juvenile disposition. In all cases where a juvenile is sentenced to the juvenile justice system, the bill requires that the conviction be treated as a juvenile delinquency.

The bill also creates a reverse transfer process, whereby a juvenile who has charges direct filed upon him or her may petition the court to transfer the case to juvenile court. The bill establishes a process for considering such a petition and makes conforming amendments.

State Expenditures

This bill will result in a **net savings of \$14,712 in General Fund for FY 2008-09 and FY 2009-10.**

Department of Corrections. A total of 61 offenders were sentenced to the YOS in FY 2006-07. Of those, 11 were sentenced for crimes committed when the juvenile was less than 16 years of age and one offender was sentenced for vehicular homicide, for a total of 12 offenders that would not be eligible for the YOS in the future. Given that the annual YOS operating cost per inmate is \$67,437, the bill is expected to save the department approximately \$809,244 each year in operating costs. The average YOS sentence for these offenders was 5.2 years.

It should be noted that the YOS is an intensively structured program that provides services and treatment to juvenile offenders during incarceration, as well as the transition back to the community. House Bill 08-1208 will impact the types of offenders sentenced to the YOS and will likely require the DOC to make programming and security changes to adapt to the needs of older and more serious criminal offenders.

Department of Human Services. Juveniles who are convicted of a class 2 felony offense, but are no longer eligible for sentencing to the YOS under HB 08-1208, must be committed to the Department of Human Services, Division of Youth Corrections (DYC). State-secured DYC commitment facilities operate at an approximate annual cost of \$66,211 per juvenile, depending on variable costs for treatment and education. The 12 juveniles mentioned previously who would be sentenced to the DYC instead of the YOS would cost the division \$794,532 each year.

Judicial Branch. **An average of 145 cases each year were direct filed in district court for FY 2005-06 through FY 2007-08. Approximately 119 cases each year involve defendants who are over the age of 16 at the time charges are filed, while the defendants in 21 cases are under the age of 16. An average of 5 cases of vehicular homicide or vehicular assault are heard by the district court each year.**

Raising the minimum age and removing vehicular homicide and vehicular assault from the direct file qualifications will reduce the number of cases direct filed in district court **by an average of 26 cases each year.** Instead, these cases will be filed in juvenile court as juvenile delinquency matters, which generally take less time to process than a traditional criminal case. However, given the serious nature of the cases that warrant consideration for direct filing, they would be some of the most complex cases on the juvenile delinquency dockets. This fiscal note expects a minimal impact to the trial courts as a result of these provisions, due to the relatively small number of cases to which they will apply.

The Judicial Branch estimates, based on feedback from polled judges, that most reverse transfer hearings will take half a day, although some cases could take up to two full days. Judges must consider certain criteria at a reverse transfer hearing, including the seriousness and type of charges and the defendant's criminal history. Assuming that either of those factors is extraordinary, the length of a reverse transfer hearing will be minimal. It should also be noted that the vast majority of criminal cases end in a plea agreement, many of which will come prior to a reverse transfer hearing.

Public Defender. The Office of the State Public Defender (OSPD) represented approximately 53 percent of juvenile cases in Colorado for FY 2006-07. The bill raises the minimum age for direct filing on a juvenile defendant from 14 to 16. Under the bill, 14 cases each year that are currently prosecuted in adult court will be handled in juvenile court (53 percent of the yearly average of 26 cases that would no longer be eligible for direct filing under the bill). The OSPD uses an established case weighted resource allocation model to determine the required attorney and support staff time for adult and juvenile cases. Potential penalties for adult cases are more severe and require more time and resources to defend. Moving 14 cases each year to juvenile court will slightly reduce the impact to the OSPD (-0.4 FTE) in terms of staff time and resources.

The bill also creates a reverse transfer process that would apply to 119 cases each year. As previously mentioned, the OSPD represents 53 percent of those defendants, or a total of 63 cases that could result in new hearings as a result of the bill. The case weighted resource allocation model dictates that one attorney can handle 1,500 such proceedings or hearings each year. Using that standard, each hearing requires 1.4 hours of attorney time, plus 1.3 hours of time by support staff, for a total of 2.7 hours of OSPD staff resources per hearing. Assuming that a hearing is requested in each of the 63 cases and 2.7 hours are expended for each hearing, the additional 170 hours per year will result in a slight increase (0.1 FTE) in the needs of the OSPD.

The combined impact to the OSPD as a result of raising the minimum age for direct files and the new reverse transfer hearings is expected to be minimal (-0.3 FTE) and will be redistributed to meet the needs of the office.

State Appropriations

The following appropriations are needed under HB 08-1208 for FY 2008-09:

Department of Corrections	Amount
General Fund reduction	(\$809,244)
Department of Human Services - Division of Youth Corrections	Amount
General Fund	\$794,532

Departments Contacted

Corrections Human Services Judicial Public Defender