



Colorado *Legislative Council Staff Fiscal Note*
REVISED NO FISCAL IMPACT

(replaces fiscal note dated February 26, 2008)

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Prime Sponsor(s): Rep. Levy
Sen. Shaffer

Bill Status: Senate Appropriations

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TITLE: CONCERNING JUVENILES AGAINST WHOM CHARGES ARE DIRECTLY FILED IN A DISTRICT COURT.

Summary of Legislation

This bill, *as amended by the Senate Judiciary Committee*, revises current law to require that juveniles who are charged as adults be held (pending adjudication of the case) in a juvenile facility, assuming the court finds that the juvenile cannot be released on bond. The court may find, however, that the defendant's presence in a juvenile detention facility presents a substantial risk to the other residents of the facility. In such cases, the juvenile will be detained in an adult facility, but physically segregated from the adult population.

The bill 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. 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.

Assessment

Department of Human Services. Beds in juvenile detention facilities under the control of the Department of Human Services, Division of Youth Corrections (DYC), are statutorily capped at 479. Local jurisdictions will be required to manage within the current bed allocation, regardless of the number of new juveniles being detained in a given facility as a result of this bill. As such, the bill will not create additional costs for the department.

Judicial Branch. 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 bill creates a reverse transfer process that would apply to approximately 119 cases each year. The Office of the State Public Defender (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 used by the OSPD 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, which can be absorbed using existing resources.

Departments Contacted

Corrections

Human Services

Judicial

Public Defender