


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 08-0419
Prime Sponsor(s): Sen. Williams
 Rep. Marshall

Date: January 28, 2008
Bill Status: Senate Judiciary
Fiscal Analyst: Jessika Shipley (303-866-3528)

TITLE: CONCERNING A REDUCTION OF THE PENALTY FOR FIRST DEGREE MURDER FOR CERTAIN JUVENILES CONVICTED AS ADULTS OF FIRST DEGREE MURDER.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue		
Cash Funds - Fines Collection Cash Fund	Potential decrease	
State Expenditures		
General Fund	\$46,048	\$46,048
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: None		

Summary of Legislation

This bill reduces the penalty for first degree murder and first degree murder of a peace officer or firefighter from a class 1 felony to a class 2 felony if the defendant:

- was under the age of 18 at the time of the offense;
- is convicted as an adult; and
- did not commit or assist in the commission of the murder.

The bill allows defendants convicted of such offenses to be eligible for sentencing to the Youthful Offender System (YOS) of the Department of Corrections (DOC).

State Revenue

Pursuant to Section 18-1.3-401 (III) (A), C.R.S., the fine penalty for a class 2 felony is \$5,000 to \$1,000,000. Unless otherwise provided by law, the fines are to be deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration or imposing a fine, the impact to the cash fund and the General Fund cannot be determined.

State Expenditures

Corrections. Forty-eight individuals are currently incarcerated in adult prison facilities for first degree murder who were under the age of 18 at the time of the offense. Most of those can be identified as the individual who committed or assisted in committing the murder. It is estimated that, under the provisions of this bill, one offender every five years would receive a sentence to YOS instead of adult prison and one offender every five years would be sentenced for a class 2 felony instead of a class 1 felony with the adult prison sentence imposed.

The YOS is intended as a middle tier between the Division of Youth Corrections in the Department of Human Services and the DOC for violent youthful felony offenders. There is one YOS facility in the state and it has a total of 256 beds. The bill allows the court to use discretion in determining which individuals are sentenced to YOS rather than adult prison facilities. The annual YOS operating cost per inmate is \$67,437. The annual operating cost per private prison inmate is \$21,389. The net increase in costs for an inmate who is incarcerated in the YOS facility instead of adult prison is \$46,048 each year. It is important to note that the maximum length of stay at the YOS facility is 72 months, while a life sentence for a juvenile sentenced as an adult is estimated at 720 months.

While it is beyond the scope of the fiscal note, it should be noted that an offender sentenced for a class 2 felony has an average length of stay of 265 months, as opposed to the 720 months estimated for a life sentence. This results in a savings of approximately \$812,782 assuming the current annual operating cost per inmate, for the offender who could be sentenced for a class 2 felony instead of a class 1 felony under the bill.

Judicial. The Judicial Branch would likely see a reduction in the time required for trial and sentencing under this bill due to the reduced penalty. However, the penalties for class 2 felonies are significantly high enough to require defendants to put forth a stringent defense. Also, the number of cases heard by the district courts meeting the criteria specified by the bill are very small. In calendar year 2007, there were a total of seven cases. Given the low number of cases that will be affected by the legislation and the fact that the reduced penalty is still quite significant, the bill will have a minimal impact on the workload of the trial courts.

State Appropriations

For FY 2008-09, SB 08-066 requires the following appropriations:

Department of Corrections	Amount
General Fund	\$46,048

Departments Contacted

Corrections Judicial