

Colorado Legislative Council Staff Fiscal Note

STATE

REVISED FISCAL IMPACT

(replaces fiscal note dated January 28, 2008)

Drafting Number: LLS 08-0419

Date: March 10, 2008

Prime Sponsor(s): Sen. Williams
Rep. Marshall

Bill Status: Senate Appropriations

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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		
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		

This fiscal note is revised to reflect amendments made by the Senate Judiciary Committee.

Summary of Legislation

Background. Current law prohibits juveniles who are convicted of a class 1 felony (first degree murder) and class 2 felonies under certain circumstances from being sentenced to the Youthful Offender System (YOS) of the Department of Corrections (DOC). An individual commits first degree *felony murder* if he or she commits or attempts to commit:

- arson;
- robbery;
- burglary;
- kidnapping;
- sexual assault; or
- escape from custody, and another individual dies as a result of the commission the crime.

This bill, *as amended by the Senate Judiciary Committee*, would allow the court to sentence juveniles who are charged with felony murder, but plead to a class 2 felony, to the YOS only if they would be eligible for sentencing to the YOS for the offense underlying the felony murder charge.

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. 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. A sentence to the YOS is an increased incentive for a defendant to accept a plea agreement. The Judicial Branch would likely see a reduction in the time required for trials under this bill due to more cases being resolved by plea agreements. However, the number of cases heard by the district courts meeting the criteria specified by the bill are very small. Given the low number of cases that will be affected by the legislation, 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