


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 08-0390
Prime Sponsor(s): Rep. Gardner B.
 Sen. Cadman

Date: February 13, 2008
Bill Status: House Judiciary
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TITLE: CONCERNING GLOBAL POSITION MONITORING FOR CERTAIN SEX OFFENDERS RELEASED INTO THE COMMUNITY.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
State Revenue	\$0	\$0
Transfers or Diversions Transfer from the General Fund to the Capital Construction Fund	(\$8,761,550)	(\$8,761,550)
State Expenditures General Fund	\$8,042,608	\$14,877,634
Cash Funds - Capital Construction Fund Appropriation to the Corrections Expansion Reserve Fund	8,761,550	8,761,550
FTE Position Change	34.7 FTE	63.5 FTE
Effective Date: July 1, 2008, and applies to offenses committed on or after that date.		
Appropriation Summary for FY 2008-2009: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

Under current law, a small percentage of sex offenders on probation or parole are required to submit to global position monitoring. It is currently utilized for only high risk offenders. This bill requires all sex offenders who are released on parole or sentenced to probation to be subject to global position monitoring. The bill also specifies that offenders will bear the cost of global position monitoring.

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 \$8.8 million 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 \$5.9 million from the HUTF and \$2.9 million from capital construction.

State Expenditures

Department of Corrections. In FY 2008-09, the department will incur additional expenditures of **\$12.7 million**. These costs are from monitoring expenses related to indigent parolees and new admissions to prison due to higher levels of parole and probation revocations. At this time, the fiscal note did not estimate any parole staffing needs related to global position monitoring.

At present, the Division of Adult Parole, community corrections, and youthful offender system has about 50 sex offenders on active or passive global position monitoring. Passive monitoring costs \$9.75 per day per offender and active monitoring costs \$15.50 per day. Passive monitoring involves receiving one report per day of an offender's activity throughout the previous day. Active monitoring is real-time, live monitoring of an offender's activity. The bill will require an additional 1,250 offenders to be monitored. Assuming all of these offenders are on passive monitoring, the total costs of monitoring will amount to \$4.4 million per year, which must be paid by sex offenders. However, if an offender is indigent, the department will incur additional costs to pay for the monitoring. The fiscal note assumes that 10 percent of offenders will be able to pay for monitoring expenses, with the balance unable to pay. The net cost of monitoring will therefore be approximately **\$4.0 million** per year.

In addition, the department will face additional incarceration costs as more sex offenders on parole and probation are revoked to prison as a result of global monitoring. While many sex offenders on parole and probation are revoked to prison for committing either a new crime or a technical violation under current law, this bill will increase the likelihood of an offender committing a technical violation. Assuming that 5 percent of sex offenders on parole or probation are revoked to prison because of this bill, an additional 10 offenders on parole and 60 offenders on probation will be revoked to prison. In FY 2008-09, the capital construction costs for these new inmates is **\$8.8 million**, as indicated in Table 1. The five-year costs of new prison admissions is **\$60.3 million**. The revocation of 10 parolees to prison each year will reduce parole expenses by about **\$83,000** annually.

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 \$5.15 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,112 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	\$8,761,550	\$0	\$8,761,550
FY 2009-10	70.0	\$8,761,550	\$2,013,060	\$10,774,610
FY 2010-11	140.0	\$8,761,550	\$4,026,120	\$12,787,670
FY 2011-12	210.0	\$8,761,550	\$6,039,180	\$14,800,730
FY 2012-13	280.0	\$5,094,216	\$8,052,240	\$13,146,456
Total		\$40,140,416	\$20,130,600	\$60,271,016

Judicial Branch. The bill will increase expenditures for the branch by an estimated **\$4.1 million in FY 2008-09 and \$8.9 million in FY 2009-10**, as indicated in Table 2. These costs are related to the direct monitoring expenses of sex offenders on probation and the increased staffing costs of tracking offenders compared with current practices.

The fiscal note makes the following assumptions to estimate the number of sex offenders on probation who will require global position monitoring:

- 1,200 sex offenders will be sentenced to probation annually;
- sex offenders will be sentenced to probation evenly throughout the year;
- 90 percent of offenders requiring monitoring will be unable to pay;
- passive monitoring will be used at a cost \$9.75 per day;
- staffing requirements for sex offender intensive supervision probation will increase from 25:1 to 15:1; and
- staffing requirements for non-sex offender intensive supervision probation will increase from 35:1 to 21:1.

In FY 2008-09, the branch will incur monitoring expenses of \$1.9 million. In FY 2009-10, those expenses will increase to \$5.0 million because the offenders subject to monitoring in the first year who are not revoked to prison will require monitoring throughout the entire second year at an annual cost of \$3.1 million.

In addition, the bill will require more probation officers to accommodate the demands of global position monitoring. An estimated 34.7 FTE (25.8 FTE probation officers, 3.2 FTE probation supervisors, and 5.7 FTE support staff) will be needed in FY 2008-09, at a cost of \$2.0 million. The staffing needs increase to 63.5 FTE in the subsequent year because the offenders subject to monitoring in the prior year will continue to need monitoring, plus another 1,200 sex offenders will be sentenced to probation in FY 2009-10.

Table 2. Judicial Branch Expenditures Under HB08-1219		
Cost Components	FY 2008-09	FY 2009-10
Global position monitoring expenses at \$9.75 per day per offender	\$1,921,725	\$5,054,137
Offenders subject to monitoring	1,200	2,178
Personal Services	\$2,004,365	\$3,668,644
FTE	34.7	63.5
Operating Expenses	\$58,774	\$107,440
Capital Outlay (one-time cost)	\$137,330	\$113,939
TOTAL	\$4,122,194	\$8,944,160

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

State Appropriations

In FY 2008-09, the bill requires a General Fund transfer of \$8,761,550 to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires a \$3,920,414 General Fund appropriation to the Department of Corrections and a \$4,122,194 General Fund appropriation to the Judicial Branch with 34.7 FTE. The other five-year appropriations to cover capital construction and operating costs in the Department of Corrections for the period from FY 2009-10 to FY 2012-13 are identified in Table 1.

Departments Contacted

Corrections Public Safety Judicial