

**FINAL  
FISCAL NOTE**

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

**Date:** May 22, 2008  
**Bill Status:** Postponed Indefinitely  
**Fiscal Analyst:** Todd Herreid (303-866-2633)

**TITLE:** CONCERNING GLOBAL POSITION MONITORING FOR CERTAIN SEX OFFENDERS RELEASED INTO THE COMMUNITY.

<b>Fiscal Impact Summary</b>	<b>FY 2008-2009</b>	<b>FY 2009-2010</b>
<b>State Revenue</b>	\$0	\$0
<b>Transfers or Diversions</b> Transfer from the General Fund to the Capital Construction Fund	(\$187,748)	(\$125,165)
<b>State Expenditures</b> General Fund	\$82,486	\$202,893
Cash Funds - Capital Construction Fund Appropriation to the Corrections Expansion Reserve Fund	187,748	125,165
<b>FTE Position Change</b>	0.2 FTE	0.4 FTE
<b>Effective Date:</b> The bill was postponed indefinitely by the House Appropriations Committee on April 10, 2008.		
<b>Appropriation Summary for FY 2008-2009:</b> See State Appropriations section.		
<b>Local Government Impact:</b> 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 for limited periods of time. This bill, as amended by the House Judiciary Committee on February 20, 2008, changes the types of offenders who are required to submit to global positioning monitoring. Instead of all sex offenders who are released to parole or probation being subject to global position monitoring, the amended bill specifies that only sexually violent predators (SVPs) will be required to submit 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 \$187,748 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 March 2008 Legislative Council Staff revenue forecast, there is only enough revenue to fully fund the diversion to the Highway Users Tax Fund (HUTF) under the provisions of SB 97-1 in FY 2007-08 and FY 2011-12. 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, beginning in FY 2008-09, would serve to reduce the amount of money available for diversion to the HUTF. In FY 2008-09, this amounts to \$187,748 from the HUTF.

## **State Expenditures**

**Department of Corrections.** In FY 2008-09 and FY 2009-10, the department will incur additional expenditures of **\$229,234 and \$263,078**, respectively. These costs are from GPS monitoring expenses of SVP parolees and new admissions to prison due to higher levels of parole revocations. At this time, the fiscal note did not estimate any parole staffing needs related to global position monitoring. The five-year costs of incarcerating additional inmates is illustrated in Table 1.

At present, the Division of Adult Parole has 16 SVPs on global position monitoring (GPS). 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 department currently monitors SVPs on GPS for at least 180 days. Offenders can be continued on GPS beyond 180 days only by order of the Parole Board. The fiscal note assumes that 10 percent of SVPs will be ordered to remain on GPS monitoring beyond 180 days under current law.

In addition, there are 330 SVPs who are incarcerated in prison. Of these, 191 are serving a lifetime sentence and release to parole is discretionary and unlikely to occur. Another 11 SVPs do not have a mandatory parole period to complete and will be discharged from prison. The remaining 128 offenders will be released in the next several years. The fiscal note assumes that 20 SVPs will be released in each of the next 6 years. Furthermore, the department identifies new SVPs each year who may or may not be serving a lifetime sentence. In 2007, 58 incarcerated offenders were designated as SVPs. The fiscal note further assumes that 6 newly identified SVPs will be released each year who were not serving a lifetime sentence. The bill will therefore require an additional 23 offenders to be monitored in the first year (26 offenders minus 3 who would have been monitored anyway), with an estimated 21 in each subsequent year. Assuming all of these offenders are on passive monitoring, the total costs of monitoring will amount to **\$41,486 in FY 2008-09 and \$119,730 in FY 2009-10**, 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 all of these offenders will be unable to pay for monitoring expenses.

In addition, the department will face additional incarceration costs as more sex offenders on parole are revoked to prison as a result of GPS monitoring. While many sex offenders on parole 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 10 percent of SVPs on parole are revoked to prison because of this bill, an additional 3 offenders will be revoked to prison in FY 2009-10, with 5, 8, and 10 offenders revoked in each of the

following years. In FY 2008-09, the capital construction costs for these new inmates is **\$187,748**, as indicated in Table 1. The five-year costs of new prison admissions is **\$1.2 million**. The revocation of these parolees to prison each year will reduce parole expenses by about **\$24,954 in FY 2009-10 and \$41,590 in FY 2010-11**.

### **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.

<b>Table 1. Five-Year Fiscal Impact On Correctional Facilities</b>				
<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
<b>FY 2008-09</b>	0.0	\$187,748	\$0	\$187,748
<b>FY 2009-10</b>	1.5	\$125,165	\$43,137	\$168,302
<b>FY 2010-11</b>	2.5	\$187,748	\$71,895	\$259,643
<b>FY 2011-12</b>	4.0	\$125,165	\$115,032	\$240,197
<b>FY 2012-13</b>	5.0	\$187,748	\$143,790	\$331,538
<b>Total</b>		<b>\$813,574</b>	<b>\$373,854</b>	<b>\$1,187,428</b>

**Judicial Branch.** The bill will increase expenditures for the branch by an estimated **\$41,000 in FY 2008-09 and \$64,980 in FY 2009-10**, as indicated in Table 2. These costs are related to the direct monitoring expenses of SVPs on probation and the increased staffing costs of tracking SVPs compared with current practices.

In calendar year 2007, a total of 20 sex offenders were identified as SVPs and given a sentence to probation. Of these 20 offenders, 14 were serving the DOC portion of their sentence and 6 were being supervised by the probation division in the community. For the 6 offenders under probation supervision, 4 were temporarily subject to GPS monitoring. The other 2 offenders continue to be subject to GPS monitoring. Based on this information, the fiscal note makes the following assumptions to estimate the number of SVPs on probation who will require global position monitoring under the bill:

- 6 new SVPs each year will be sentenced to probation and require monitoring;
- one-third of the new SVPs would have been subject to monitoring without the bill;
- passive monitoring will be used at a cost \$9.75 per day; and
- staffing requirements for sex offender intensive supervision probation will increase from 25:1 to 15:1.

In FY 2008-09, the branch will incur monitoring expenses of \$28,470. In FY 2009-10, those expenses will increase to \$42,705 because the offenders subject to monitoring in the first year who are not revoked to prison will require monitoring throughout the entire second year. In addition, the bill will require more probation officers to accommodate the demands of global position monitoring. An estimated 0.2 FTE will be needed in FY 2008-09 and 0.4 FTE in FY 2009-10.

<b>Table 2. Judicial Branch Expenditures Under HB08-1219</b>		
<b>Cost Components</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>
Global position monitoring expenses at \$9.75 per day per offender	\$28,470	\$42,705
New Offenders subject to monitoring	8	12
Personal Services	\$12,530	\$22,275
FTE	0.2	0.4
<b>TOTAL</b>	<b>\$41,000</b>	<b>\$64,980</b>

**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 \$187,748 to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires a \$41,486 General Fund appropriation to the Department of Corrections and a \$41,000 General Fund appropriation to the Judicial Branch with 0.2 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