



Colorado Legislative Council Staff Fiscal Note
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 09-0956

Date: April 9, 2009

Prime Sponsor(s): Rep. Levy
 Sen. Carroll M.

Bill Status: House Judiciary

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TITLE: CONCERNING THE PLACEMENT OF A JUVENILE WHO IS AWAITING TRIAL IN DISTRICT COURT.

| Fiscal Impact Summary | FY 2009-2010 | FY 2010-2011 |
|--|---------------------|---------------------|
| State Revenue | | |
| State Expenditures | | |
| General Fund | \$837,442 | \$837,442 |
| FTE Position Change | | |
| Effective Date: Upon the signature of the Governor or upon its becoming law without his signature | | |
| Appropriation Summary for FY 2009-2010: See State Appropriations section | | |
| Local Government Impact: See Local Government Impact section | | |

Summary of Legislation

This bill requires a court order before a juvenile charged as an adult may be detained in an adult detention facility. The court must find, after a hearing, that it is in the interest of justice to hold the juvenile in an adult facility, pending a criminal trial. The bill outlines the criteria that must be considered by the court in making such a determination. The hearing on the placement of a juvenile must be held within 30 days of the juvenile being formally charged as an adult.

The bill allows the district attorney or the Division of Youth Corrections (DYC) in the Department of Human Services to petition the court in order to have a juvenile who is charged as an adult moved from a juvenile detention facility to an adult facility when the juvenile presents an imminent danger to other juveniles or staff at the detention facility. The juvenile defendant may petition the court to be moved from an adult facility to a juvenile facility if there is a substantial change of circumstances that would affect the court's determination.

State Expenditures

Department of Human Services. The bill will result in increased General Fund expenditures in the department of \$837,442 in FY 2009-10 and FY 2010-11. Based on historical data, an estimated 146 juveniles each year are charged as adults. Approximately 30 percent of those post bond. That leaves an average of 102 cases each year in which the defendants would be subject to

the provisions of this bill. Approximately 64 percent, or 65 juveniles each year, are detained in an adult facility under current law. These 65 juveniles would represent a new population in DYC facilities under HB 09-1321. The fiscal note assumes that juveniles will be detained in a DYC facility for an average of 15 days each prior to an initial placement hearing. It is also assumed that approximately 50 percent of juvenile offenders charged as adults will be held in a DYC facility pending the outcome of their trials. The DYC is able to absorb only 10 percent of the new offenders within existing resources. Such absorption will be administered by contract service providers in DYC-owned or privately-owned facilities. Table 1 outlines the increased costs to the DYC under the bill.

| Table 1. Annual Expenditures Under House Bill 09-1321 | |
|--|------------------|
| Detention Prior to Placement Hearing | |
| Estimated direct file cases | 102 |
| Number of juveniles currently held in adult facilities | 65 |
| Average length of stay prior to a placement hearing (days) | 15 |
| Number of bed days | 990 |
| Daily staff secure detention rate for a third party provider | \$134.27 |
| Annual costs for increased average daily population prior to placement hearing | \$132,927 |
| Detention Pending Outcome of Trial | |
| Estimated direct file cases | 102 |
| Number of juveniles currently held in adult facilities | 65 |
| Number of juveniles that the court would order be held in a DYC facility | 33 |
| Average length of stay pending the outcome of the trial (days) | 180 |
| Number of bed days | 5,940 |
| Daily staff secure detention rate for a third party provider | \$134.27 |
| Annual costs for increased average daily population prior to outcome of trial | \$797,564 |
| Savings due to absorption at \$134.27 per day | (\$93,049) |
| Total average daily population increase to DYC | \$837,442 |

Judicial Branch. This bill is likely to increase the workload for the Judicial Branch, but it is not possible to determine the impact at this time. The bill will result in additional hearings, but the fiscal impact of those hearings is largely dependent on the policies of district attorneys, defense attorneys and the DYC. A motion to move a juvenile to an adult facility must be filed in order for the courts to become involved. The impact of the bill will depend on the frequency with which such motions are filed. The fiscal note assumes that each hearing regarding the initial placement of a juvenile will take between four and eight hours.

If district attorneys file motions in all 65 cases of juveniles charged as adults who are being held in adult facilities under current law, the branch's need associated with those hearings would be approximately 0.25 FTE. This assumes that the hearings would each take 8 hours. The length of hearings on the subject of moving a juvenile from one type of facility to another is expected to be shorter, but potentially more frequent.

The pool of cases affected by this bill is a small fraction of the entire felony caseload. If the provisions of the bill are used infrequently, the resulting workload increase to the branch will be minimal and absorbable within existing resources. If, however, hearings occur in most cases and take the estimated half day to full day to complete, there could be a significant fiscal impact on the courts. After the bill goes into effect, more information will become available as to how many new hearings will be requested and how long they will take. Such an impact will be addressed through the annual budget process.

Local Government Impact

District attorneys. The bill requires the court to consider several complex issues before making a determination regarding the placement of a juvenile offender charged as an adult. Such questions often require some sort of expert analysis and testimony. The bill is silent on which entity would be responsible for paying for such expert opinions. If the responsibility falls to the local district attorneys, the costs would be retrieved from the state as mandated costs.

Local jails. Additionally, local jails will see a slight savings as a result of this bill. Juvenile offenders who are charged as adults are generally held in county jails pending trial. The bill would remove those juveniles to DYC facilities, except in cases where the court orders the juvenile to be detained in an adult facility. Because number of juvenile offenders subject to the provisions of this bill is small and spread across several county jails, any savings is expected to be minimal.

State Appropriations

The bill requires a General Fund appropriation to the Department of Human Services of \$837,442 for FY 2009-10.

Departments Contacted

District Attorneys

Human Services

Judicial