

*Colorado Legislative Council Staff Fiscal Note*

**STATE and LOCAL  
REVISED FISCAL IMPACT**

(replaces fiscal note dated April 9, 2009)

**Drafting Number:** LLS 09-0956

**Date:** April 27, 2009

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

**Bill Status:** House Appropriations

**Fiscal Analyst:** Jessika Shipley (303-866-3528)

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

<b>Fiscal Impact Summary</b>	<b>FY 2009-2010</b>	<b>FY 2010-2011</b>
<b>State Revenue</b> General Fund	\$546,400	\$641,404
<b>State Expenditures</b> General Fund	\$804,191	\$784,876
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon the signature of the Governor or upon its becoming law without his signature		
<b>Appropriation Summary for FY 2009-2010:</b> See State Appropriations section		
<b>Local Government Impact:</b> See Local Government Impact section		

*\* This fiscal note is revised to reflect changes made by the House Judiciary Committee on April 13, 2009.*

**Summary of Legislation**

This bill, as amended by the House Judiciary Committee, 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. Juveniles charged with a class 1 felony will be held in a county jail unless the district attorney stipulates to the juvenile being held in a juvenile facility. 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.

Finally, the bill imposes a surcharge of \$1.50 on most criminal actions, traffic infractions, and tickets issued by the Division of Wildlife and the Division of Parks and Outdoor Recreation in the Department of Natural Resources.

**State Revenue**

This bill imposes a surcharge of \$1.50 on criminal actions resulting in a conviction or a deferred judgment and sentence for a felony, misdemeanor, or misdemeanor traffic offense. A surcharge of \$1.50 is also imposed on traffic tickets and tickets issued by the Department of Natural Resources, Division of Wildlife and Division of Parks and Outdoor Recreation. Surcharges will be applicable to offenses committed on and after the effective date of the bill and may be waived if the individual is indigent. The surcharge only applies to convictions or deferred judgments, so not all cases that are charged will make it to the disposition phase prior to the end of the first fiscal year after the bill becomes effective. The number of case dispositions will increase in year two. Table 1 shows the number of cases of each type that will be assessed a surcharge and the expected amount of revenue for the first two fiscal years. All revenue is credited to the General Fund.

<b>Table 1. Estimated Surcharge Revenue from House Bill 09-1321</b>					
<b>Department</b>	<b>Type of Case</b>	<b>Number of Cases</b>		<b>Expected Revenue</b>	
		<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>
Judicial	Felony	2,570	8,995	\$3,855	\$13,493
	Misdemeanor	54,450	81,675	\$81,675	\$122,513
	Misdemeanor traffic	25,200	37,800	\$37,800	\$56,700
	Traffic infraction (with court appearance)	91,120	108,205	\$136,680	\$162,308
Revenue	Traffic infraction (no court appearance)	182,888	182,888	\$274,332	\$274,332
Natural Resources	Division of Wildlife citations	2,703	2,703	\$4,055	\$4,055
	Division of Parks and Outdoor Recreation citations	5,335	5,335	\$8,003	\$8,003
<b>Total</b>		<b>364,266</b>	<b>427,601</b>	<b>\$546,400</b>	<b>\$641,404</b>

**State Expenditures**

The bill will increase state General Fund expenditures by \$804,191 in FY 2009-10 and \$784,876 per year thereafter. Ongoing costs occur in the Department of Human Services; one-time costs occur in the Department of Revenue. The Judicial Branch may also see an increase in costs.

*Department of Human Services.* The bill will increase the department's costs by \$784,876 per year beginning in FY 2009-10 to handle an increase in the number of juveniles housed in DYC facilities. Based on historical data, an estimated 146 juveniles each year are charged as adults. Approximately 30 percent of those post bond. Under the amended bill, juveniles charged with

class 1 felonies would not be eligible for detention in a juvenile facility. Approximately 10 juveniles were charged with class 1 felonies in FY 2007-08. That leaves an average of 95 cases each year in which the defendants would be subject to the provisions of this bill. Approximately 64 percent, or 61 juveniles each year, are detained in an adult facility under current law. These 61 juveniles would represent a new population in NYC facilities under HB 09-1321.

The fiscal note assumes that juveniles will be detained in a NYC 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 NYC facility pending the outcome of their trials. The NYC is able to absorb only 10 percent of the new offenders within existing resources. Such absorption will be administered by contract service providers in NYC-owned or privately-owned facilities. Table 2 outlines the increased costs to the NYC under the bill.

<b>Table 2. Annual Expenditures Under House Bill 09-1321</b>	
<b>Detention Prior to Placement Hearing</b>	
Estimated direct file cases	95
Number of juveniles currently held in adult facilities	61
Average length of stay prior to a placement hearing (days)	15
Number of bed days	915
Daily staff secure detention rate for a third party provider	\$134.27
Annual costs for increased average daily population prior to placement hearing	\$122,857
<b>Detention Pending Outcome of Trial</b>	
Estimated direct file cases	95
Number of juveniles currently held in adult facilities	61
Number of juveniles that the court would order be held in a NYC facility	31
Average length of stay pending the outcome of the trial (days)	180
Number of bed days	5,580
Daily staff secure detention rate for a third party provider	\$134.27
Annual costs for increased average daily population prior to outcome of trial	\$749,227
Savings due to absorption at \$134.27 per day	(\$87,208)
<b>Total average daily population increase to NYC</b>	<b>\$784,876</b>

**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.

**Department of Revenue.** The department will incur computer programming costs of \$19,315 to update the penalty assessment system to accommodate the new surcharge. Currently, the department places surcharges on each violation; however, this bill specifies that the surcharge is to be placed on the penalty assessment notice (which may include multiple violations). This modification to the system will take approximately 500 hours to complete across six modules and four tables within the system. Programming costs are \$38.63 per hour. This fiscal note assumes that computer programming costs of \$19,315 are covered with funding provided in the FY 2009-10 Long Bill and no additional appropriation will be necessary.

## **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 \$784,876 for FY 2009-10.

**Departments Contacted**

District Attorneys

Human Services

Judicial

Revenue