

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

Drafting Number: LLS 10-0911
Prime Sponsor(s): Rep. King S.
 Sen. Steadman

Date: February 23, 2010
Bill Status: House Judiciary
Fiscal Analyst: Sara McPhee (303-866-4782)

TITLE: CONCERNING CHANGES TO INDECENCY CRIMES.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
Cash Funds		
Fines Collection Cash Fund	Less than \$5,000	Less than \$5,000
State Expenditures		
General Fund	\$103,643	\$103,562
FTE Position Change	1.7 FTE	1.7 FTE
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2010-2011: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

The bill amends the criminal statutes concerning public indecency and indecent exposure in the following ways:

- moves masturbation from public indecency to indecent exposure;
- moves the knowing exposure of a person's genitals with the purpose of causing affront or alarm from indecent exposure to public indecency;
- makes a subsequent offense of exposing a person's genitals with the purpose of causing affront or alarm a class 1 misdemeanor and unlawful sexual behavior under the Colorado Sex Offender Registration Act; and
- makes the exposure of a person's genitals with the intent to arouse or satisfy the sexual desire of any person part of the indecent exposure statute.

Public indecency is a class 1 petty offense and indecent exposure is a class 1 misdemeanor.

State Revenue

Per Section 18-1.3-401 (III) (A), C.R.S., the fine penalty for a class 1 misdemeanor is \$500 to \$5,000. Unless otherwise provided by law, the fines are to be deposited in the state Fines Collection Cash Fund for annual appropriations to cover associated administrative and personnel costs. All unexpended balances of the cash fund revert to the state General Fund at the end of each fiscal year. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to the cash fund and the General Fund cannot be determined.

State Expenditures

Judicial Branch. The bill increases expenditures for the Judicial Branch by \$103,643 and 1.7 FTE in FY 2010-11 and \$103,562 and 1.7 FTE in FY 2011-12. By moving the crime of masturbation from a class 1 petty offense to a class 1 misdemeanor, the fiscal note estimates that about 30 individuals will be sentenced to probation for indecent exposure when previously these individuals would have been sentenced to the lesser crime of public indecency. Individuals sentenced to probation for indecent exposure are considered sex offenders and require an enhanced level of supervision. If an individual has had 2 prior convictions for indecent exposure, the crime is a class 6 felony. The fiscal note estimates that 4 individuals will be sentenced to probation each year for the class 6 felony which requires longer and more intensive supervision on probation. The specific costs to the Judicial Branch are provided in Table 1.

Cost Components	FY 2010-11	FY 2011-12
Personal Services	\$91,689	\$100,022
FTE	1.7	1.7
Operating Expenses and Capital Outlay	11,954	3,540
TOTAL	\$103,643	\$103,562

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB 10-1334*		
Cost Components	FY 2010-11	FY 2011-12
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$12,070	\$12,070
Supplemental Employee Retirement Payments	3,410	4,526
TOTAL	\$15,480	\$16,596

**More information is available at: <http://www.colorado.gov/cs/Satellite/CGA-LegislativeCouncil/CLC/1200536133924>*

Local Government Impact

The penalty for a class 1 misdemeanor is 6 to 18 months imprisonment in a county jail, a fine of \$500 to \$5,000, or both. Because the courts have the discretion of incarceration or imposing a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails a daily rate of \$50.44 to house state inmates. It is assumed that the impact of any new misdemeanor convictions will be minimal and will not create the need for additional county jail space.

State Appropriations

In FY 2010-11, the Judicial Branch requires a General Fund appropriation of \$103,643 and 1.7 FTE.

Departments Contacted

Judicial Corrections Law