


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 10-0973	Date: April 22, 2010
Prime Sponsor(s): Rep. Levy; May Sen. Newell; Lundberg	Bill Status: House Judiciary
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TITLE: CONCERNING JUVENILES WHO ARE TRIED AS ADULTS.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue		
State Expenditures		
General Fund	\$240,755	\$508,684
FTE Position Change	0.0 FTE	0.0 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: None		

Summary of Legislation

Current law allows a district attorney to file criminal charges against a juvenile as young as 14 in district court, a process known as "direct filing" of charges. This bill raises the minimum age to 16, except in cases of:

- first degree murder;
- second degree murder; or
- a sex offense combined with one of the following:
 - the alleged crime is a crime of violence;
 - the juvenile used or threatened the use of a deadly weapon during the commission of the crime;
 - the juvenile has, within the previous two years, been adjudicated as a juvenile delinquent for committing a class 3 felony;
 - the juvenile has previously had charges direct filed or transferred, unless he or she was found not guilty of such charges; or
 - the juvenile is determined to be a habitual juvenile offender.

A district attorney who intends to direct file charges against a juvenile must provide notice of such intent with the juvenile court at least 14 days prior to doing so. The 14-day notice requirement does not apply to cases of first degree murder, second degree murder, sex offenses, or incest. The district attorney is required to consider specific criteria in determining whether to direct file and to provide written notice about which factors led to such a decision.

Current law prohibits the court from sentencing a juvenile convicted of a class 2 felony in district court to the Youthful Offender System (YOS) in the Department of Corrections (DOC). The bill allows judges the discretion to sentence juveniles who were convicted of class 2 felonies (excluding sex offenses) to the YOS.

State Expenditures

The bill requires a net General Fund expenditure of \$240,755 in FY 2010-11 and \$508,684 in FY 2011-12. The savings and costs to the DOC and the Department of Human Services (DHS) are explained in the following sections.

Department of Corrections. The DOC will require a General Fund reduction of \$131,125 in FY 2010-11 and \$235,077 in FY 2011-12. The following changes will occur within the DOC population each year:

- 6 offenders currently in the YOS would be sentenced to the Division of Youth Corrections (DYC) in the DHS;
- 1 offender from the adult DOC population (class 6 felony) would be sentenced to the DYC; and
- 8 offenders from the adult DOC population (class 2 felonies) would be sentenced to the YOS.

This results in a net increase in the YOS population of 2 youthful offenders each year. The five-year impact to the DOC is explained below.

Five-Year Fiscal Impact on Correctional Facilities

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 inmates that would have been housed in the adult DOC population (that will now be sentenced to the YOS under this bill) were allocated between state correctional facilities and private contract prisons according to historical patterns.***

Operating costs for state correctional facilities are \$88.60 per bed per day or \$32,339 per bed per year. The state pays a rate of \$52.69 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$19,232 per private prison bed per year. The daily rate for the YOS is \$185.86 or \$67,839 per bed per year. The daily rate for inmates from the adult population who are moving to the YOS is prorated to reflect the percentage of inmates who are currently housed in private prisons and those housed in state facilities. It is important to note that the bed impact number increases each year because the average length of stay for every felony class, whether in the adult population or YOS, is more than 12 months. As such, regardless of the felony class of the offense, some or all of the bed impact from any given year carries over into the following year.

Table 1. Five-Year Fiscal Impact On Correctional Facilities					
Fiscal Year	Adult Bed Impact	Adult Operating Costs	Net YOS Bed Impact	Net YOS Operating Cost	Net Total Operating Cost
FY 2010-11	(9.0)	(\$266,803)	2.0	\$135,678	(\$131,125)
FY 2011-12	(17.0)	(\$506,433)	4.0	\$271,356	(\$235,077)
FY 2012-13	(25.0)	(\$745,222)	6.0	\$407,033	(\$338,189)
FY 2013-14	(33.0)	(\$984,012)	8.0	\$542,711	(\$441,301)
FY 2014-15	(41.0)	(\$1,222,801)	16.0	\$1,085,422	(\$137,379)
Total					(\$1,283,071)

Department of Human Services. The bill will result in General Fund expenditures for the DHS of **\$371,880 in FY 2010-11 and \$743,761 in FY 2011-12.** The NYC will be affected through 7 new commitments each year that would otherwise be sentenced to the DOC. The daily average weighted rate for FY 2009-10 is \$145.55, or \$53,126 per year, and the average length of stay for the new commitments is expected to be 42 months.

It is important to note that, although the fiscal note does not show five-year costs for the DHS, the department is expected to need new client managers beginning in FY 2012-13 to accommodate the increased commitments to NYC. Additionally, the NYC parole program costs will increase beginning in FY 2013-14.

Departmental Differences. The DOC identified capital construction costs of \$125,165 related to the net total of two offenders each year who would move from the adult DOC population to the NYC. The fiscal note does not reflect construction costs because NYC is a part of DOC and these offenders are transferring from one part of DOC to another. As such, they do not represent new offenders to the department and do not require new prison construction.

State Appropriations

For FY 2010-11, the following General Fund appropriations are required:

<u>Department</u>	<u>Amount</u>
Corrections	(\$131,125)
Human Services	\$371,880
Total	\$240,755

Departments Contacted

Corrections Human Services Judicial