



Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 11-0664
Prime Sponsor(s): Sen. Steadman
 Rep. McCann

Date: February 9, 2011
Bill Status: Senate Judiciary
Fiscal Analyst: Jessika Shipley (303-866-3528)

TITLE: CONCERNING EXCLUDING A CLASS 6 FELONY DRUG POSSESSION CONVICTION AS A QUALIFYING OFFENSE FOR THE HABITUAL CRIMINAL STATUTE.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures General Fund	Potential increase	
FTE Position Change		
Effective Date: The bill applies to offenses committed on after the effective date, which is upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: None required.		
Local Government Impact: None.		

Summary of Legislation

This bill removes the option of sentencing an individual convicted of the class 6 felony of unlawful possession of a controlled substance as a habitual offender. The applicable offense became effective on August 11, 2010.

Background. The habitual offender law requires the court to sentence an individual with three prior felony convictions to incarceration for a period that is four times the maximum sentence for the current felony conviction. The average length of stay for a class 6 felony is 12.2 months, but for a class 6 felony with a habitual offender enhancement, the average stay is 60 months.

State Expenditures

Department of Corrections (DOC). The DOC does not currently have any offenders incarcerated under the habitual offender enhancement for a class 6 felony offense of possession of a controlled substance. As such, the fiscal note assumes that there will be no fiscal impact to the department as a result of the bill.

Judicial Branch. The trial courts and probation departments will potentially see an increase in workload, but it is expected to be minimal and absorbable within existing appropriations. Removal of the possible sanction of a habitual criminal finding may make more individuals decide to take a chance with a trial rather than a plea bargain. Additionally, judges may sentence more defendants to probation. The applicable drug possession offense went into effect in August 2010, and this bill will go into effect less than one year later. Any increase in trials and sentences to probation is likely to be very small.

Departments Contacted

Corrections

Judicial