

Colorado Legislative Council Staff Fiscal Note

STATE
FISCAL IMPACT

Drafting Number: LLS 11-0062
Prime Sponsor(s): Sen. Steadman

Date: March 14, 2011
Bill Status: Senate Judiciary
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TITLE: CONCERNING THE COLLATERAL CONSEQUENCES OF A CONVICTION.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
State Expenditures General Fund	\$1,274,221	\$1,272,498
FTE Position Change	17.8 FTE	17.8 FTE
Effective Date: August 10, 2011, if the General Assembly adjourns on May 11, 2011, as scheduled, and no referendum petition is filed.		
Appropriation Summary for FY 2011-2012: For FY 2011-12, the Judicial Branch requires a General Fund appropriation of \$1,274,221 and 17.8 FTE		
Local Government Impact: None		

Summary of Legislation

This bill creates a judicial process for individuals seeking relief from the collateral consequences of a criminal conviction. Collateral consequences are penalties, disabilities, or disadvantages imposed on an individual as a result of a criminal conviction that apply by operation of law whether or not the penalties, disabilities, or disadvantages are included in the judgment or sentence. They may be imposed by an administrative agency, governmental official, or court in a civil proceeding on grounds relating to the individual's criminal conviction.

The Office of the State Public Defender is required to identify and publish a list of collateral consequences that are possible in Colorado based on state and federal laws and regulations. The list will be published on the websites of the Office of the State Public Defender and the Colorado Judicial Branch.

The court, at a defendant's first appearance and at sentencing, is required to inform the defendant about the possible collateral consequences. An individual may petition the court, with notice to the district attorney, for limited relief or restoration of rights. The court may grant the relief if:

- it will help the individual obtain employment, housing, public benefits, or occupational licensing;

- the individual has substantial need for the relief; and
- granting the petition would not pose a public safety risk.

A certificate of restoration of rights may be granted if the court finds by a preponderance of the evidence that:

- the individual has or is seeking employment or has a lawful source of support;
- the individual is not in violation of the terms of any criminal sentence without good cause;
- a criminal charge is not pending against the individual; and
- granting the petition would not pose a public safety risk.

The bill specifies requirements for an order granting relief and for certificates of restoration of rights, including a process for restricting or revoking such an order or certificate. An order granting limited relief or restoration of rights may not be granted to relieve the following collateral sanctions:

- sex offender registration requirements;
- a driver's license suspension, revocation, limitation, or ineligibility;
- ineligibility for employment of convicted individuals by law enforcement agencies;
- ineligibility for employment of convicted individuals for a position that requires direct contact with any vulnerable person; or
- ineligibility of convicted individuals to obtain an educator's license.

Finally, the bill defines a "decision-maker" as the state acting through a department, agency, officer, or instrumentality, including a political subdivision, educational institution, board, or commission, or its employees or contractors. Decision-makers are required in deciding whether to impose a collateral consequence to do an individualized assessment to determine whether the benefit or opportunity at issue should be denied the individual. The bill provides a number of things that must be considered by the decision-maker in making such a determination. If a court order of limited relief or certificate of restoration of rights is issued, the decision-maker is prohibited from considering a criminal conviction as grounds for imposing a collateral consequence related to employment, public housing benefits, or occupational licensing.

State Expenditures

The Judicial Branch will incur costs of \$1,274,221 and 17.8 FTE in FY 2011-12 and \$1,272,498 and 17.8 FTE each year thereafter. Courts are required to provide notice to defendants at their first appearance and at sentencing in every criminal case. Notice upon first appearance may be given in writing and is not expected to affect the workload of the trial courts. Notice at sentencing will be given orally and is expected to add an average of 60 seconds to each case. In calendar year 2010, there were 177,472 misdemeanor traffic, misdemeanor, or felony cases in which there was a conviction. This equates to an additional 2,957 hours of judicial officer time or 1.4 magistrate FTE each year.

Petitions for limited relief and certificates of restoration of rights will also impact the workload of the courts. The fiscal note assumes 5,000 petitions will be filed each year in existing criminal matters, with each hearing lasting approximately an hour. Another 200 hearings are expected each year regarding revocations of certificates of restoration of rights. Those hearings are also expected to last approximately one hour each. Finally, 1,000 new district court civil filings are expected to be filed regarding convictions in other states or at the federal level. The hearings on existing and new cases will require an additional 4.4 magistrate FTE.

The bill requires an additional 5.8 magistrate FTE total. That quantity of magistrates require support staff of 12.0 FTE. Costs associated with the 17.8 FTE are shown in Table 1.

Table 1. Expenditures Under SB 11-044		
Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$925,553	\$1,234,072
FTE	17.8	17.8
Operating Expenses	\$38,426	\$38,426
Capital Outlay	\$310,242	\$0
TOTAL	\$1,274,221	\$1,272,498

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 SB 11-044*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$126,025	\$126,025
Supplemental Employee Retirement Payments	\$41,128	\$64,611
TOTAL	\$167,153	\$190,636

*More information is available at: <http://colorado.gov/fiscalnotes>

State Appropriations

For FY 2011-12, the Judicial Branch requires a General Fund appropriation of \$1,274,221 and 17.8 FTE.

Departments Contacted

All Departments