



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

**Drafting Number:** LLS 11-0314  
**Prime Sponsor(s):** Rep. Labuda

**Date:** January 20, 2011  
**Bill Status:** House Judiciary  
**Fiscal Analyst:** Jessika Shipley (303-866-3528)

**TITLE:** CONCERNING LOCATIONS AT WHICH DRUG SALES IMPLICATE THE SPECIAL OFFENDER STATUTE.

<b>Fiscal Impact Summary</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>
<b>State Revenue</b>		
Cash Funds		
Fines Collection Cash Fund	less than \$5,000	less than \$5,000
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> August 10, 2011, assuming the General Assembly adjourns May 11, 2011, as scheduled and no referendum petition is filed.		
<b>Appropriation Summary for FY 2011-2012:</b> None required.		
<b>Local Government Impact:</b> Increase in costs.		

**Summary of Legislation**

Current law requires the court to designate as a special offender an individual convicted of selling, distributing, possessing with the intent to distribute, manufacture, or attempting to manufacture any controlled substance in a specified list of locations, including schools, public housing developments, parks, and playgrounds. This bill adds community corrections programs and public libraries to that list of locations.

**Background.** The court is required to sentence special offenders convicted of a felony to a term of imprisonment that is at least the minimum term in the presumptive range for a class 2 felony (8 years) but not more than twice the maximum term in the presumptive range for a class 2 felony (48 years). In addition to imposing a sentence of incarceration for felony special offenders, the court is required to fine all special offenders at least twice the minimum fine set in law for felonies and misdemeanors.

### **State Revenue**

The bill may increase state revenue from fines, although less than \$5,000 in new state revenue is expected per year. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund.

### **State Expenditures**

*Department of Corrections.* The bill lengthens sentences for certain drug offenders, but does not create new prison admissions. The department is expected to experience a minimal fiscal impact for these lengthier sentences, but this impact will occur well outside the five-year fiscal note period.

*Judicial Branch.* The potential for a substantial increase in sentence length is often an incentive for a defendant to ask for a trial rather than to make a plea agreement. Increasing the areas in which drug sales are subject to special offender status may result in additional trials, but the total number of new trials is expected to very low. As a result, any increased workload will be absorbed within existing appropriations.

### **Local Government Impact**

An increase in the number of criminal trials will increase costs for both district attorneys and county jails. The cost to prosecute a case at trial is higher than it is to negotiate a plea agreement in the same type of case. Additionally, defendants will be housed in county jails for longer periods of time awaiting trial and during trial before being sentenced to the Department of Corrections. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$72 per day for larger Denver-metro area jails.

### **Departments Contacted**

Colorado Counties, Inc.  
Judicial

Colorado District Attorneys' Council  
Public Safety

Corrections