

**REVISED JBC STAFF FISCAL ANALYSIS  
SENATE APPROPRIATIONS COMMITTEE**  
(This analysis replaces the one dated April 30, 2012)

CONCERNING PROVISIONS THAT IMPROVE THE REINTEGRATION OPPORTUNITIES FOR PERSONS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM.

Prime Sponsors: Senator Steadman  
Representative Levy

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**Summary of Amendments Made to the Bill After the 04/25/12 Legislative Council Staff Revised Fiscal Note Was Prepared**

None.

**JBC Staff Concurrence with Legislative Council Staff Fiscal Note**

**Concurs**       **Does Not Concur**       **Updated Analysis**

**Amendments/Appropriation Status**

The bill requires but does not contain an appropriation clause. Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$877,575 and 6.2 FTE for FY 2012-13, including \$288,901 General Fund, as detailed in the following Table 1.

TABLE 1 FY 2012-13 Appropriations (with J.001)			
Department/ Line item/ Purpose	Amount	FTE	Fund Source
<b>Judicial Department</b>			
<i>Courts Administration, Centrally Administered Programs</i>			
Courthouse Capital/Infrastructure Maintenance	\$75,724		CF - Judicial Stabilization Cash Fund (JSCF)
<i>Trial Courts</i>			
Trial Court Programs, Personal Services	250,575	5.2	CF - JSCF
Trial Court Programs, Operating Expenses	<u>7,375</u>		CF - JSCF
Total - Judicial	333,674	5.2	CF - JSCF
<b>Department of Public Safety</b>			
<i>Colorado Bureau of Investigation</i>			
Administration, Personal Services	28,485	1.0	General Fund
Administration, Operating Expenses	5,416		General Fund

TABLE 1 FY 2012-13 Appropriations (with J.001)			
Department/ Line item/ Purpose	Amount	FTE	Fund Source
Colorado Crime Information Center (CCIC), Information Technology	<u>255,000</u>		General Fund
Total - Public Safety	288,901	1.0	General Fund
<b>Governor - Lieutenant Governor - State Planning and Budgeting</b>			
<i>Office of Information Technology</i>			
Computer Center Services	255,000		Reappropriated Funds - transfer from DPS
<b>Totals</b>	<b><u>\$877,575</u></b>	<b>6.2</b>	<b>Total Funds</b>
	<b>288,901</b>	<b>1.0</b>	<b>General Fund</b>
	<b>333,674</b>	<b>5.2</b>	<b>Cash Funds</b>
	<b>255,000</b>		<b>Reappropriated Funds</b>

NOTE: As indicated on page five of the Legislative Council Staff Revised Fiscal (attached), the Department of Revenue has indicated that it would require a one-time appropriation of \$170,792 cash funds from the Licensing Services Cash Fund in FY 2012-13 to make the programming changes necessary to document court orders that remove collateral consequences related to driver records. If the General Assembly intends for this bill to apply to driver-related sanctions or restrictions, the bill should include this appropriation (it is not currently included in J.001); if not, the definitions section of the bill should be amended to clarify such intent.

**Bill Sponsor Amendments**

Sponsor amendment **J.002** (attached) makes multiple changes to the bill, which are summarized in detail starting on the next page. With respect to the fiscal impact of the bill, this amendment eliminates the General Fund expenditure impact. Specifically, the amendment:

- reduces the one-time costs related to the CCIC from \$255,000 General Fund to \$15,000 General Fund (and this amount would not need to be reappropriated to the Governor’s Office because these programming services would be performed by a private vendor);
- appropriates \$33,901 cash funds and 1.0 FTE from the CBI Identification Unit Fund (rather than the General Fund) to the Department of Public Safety for FY 2012-13 to cover the personal services, operating, and capital outlay expenses;
- adjusts appropriations in the FY 2012-13 Long Bill (H.B. 12-1335) to the Judicial Department for trial courts, reducing the General Fund appropriation by \$15,000 and increasing the cash funds appropriation from the JSCF by the same amount (thus using a portion of the JSCF revenues that will result from this bill to offset the one-time General Fund costs of implementing the bill); and
- eliminates any potential need for the Department of Revenue to make programming changes related to driver records.

*Portions of J.002 that were incorporated in L.005 (which was summarized in the JBC Staff Fiscal Analysis dated April 30, 2012):*

Notice of collateral consequences

- Replaces the provisions in the printed bill concerning notice of collateral consequences in pretrial proceedings, at sentencing, and upon release with a provision requiring the officer or agency releasing an individual following incarceration to provide notice to the individual concerning collateral consequences 10 to 30 days prior to release;

Order of collateral relief

- Specifies that a court may enter an order of collateral relief at the time of sentencing, *upon the request of the defendant or upon the court's own motion*;
- Allows a court to revoke an order of collateral relief upon *evidence* (versus "clear and convincing evidence") of a subsequent criminal conviction or proof that the holder of the judgement has become a present risk to public safety;
- Specifies that certain provisions of the bill that allow a court to order a certificate of rehabilitation (*i.e.*, eligibility, application process, hearing, and standard for granting relief) shall also apply to the provision allowing a court to enter an order of collateral relief;
- States that a pardon issued by the Governor shall waive all collateral consequences associated with each conviction for which a person received a pardon, unless otherwise limited by the pardon;

Certificate of rehabilitation/ Order of rehabilitative relief

- If a court orders an order of rehabilitative relief, requires the court to specify each conviction for which the order applies;
- Requires a court, if it issues a certificate of rehabilitation *related to a Colorado conviction*, to provide a copy of the certificate to the CCIC;
- Allows a court to order a certificate of rehabilitation after a juvenile successfully completes a sentence for a related offense in the Youthful Offender System;
- Specifies additional information to be included in the certificate of rehabilitation application, including: the type of relief sought, the relevant criminal case numbers, a copy of a recent CBI criminal records check, and copies of relevant probation or presentence reports;
- Requires an applicant for a certificate of rehabilitation to provide a copy of the application to the regulatory or licensing body that has jurisdiction over the collateral consequence from which the applicant is seeking relief;
- Clarifies that the \$225 fee for filing the application is *in addition to* the court's docket fee;
- States that a person who receives clemency from the Governor may apply for an order of rehabilitative relief no sooner than three years after the date of clemency;
- Allows a court to revoke a certificate of rehabilitation upon *evidence* (versus "clear and convincing evidence") of a subsequent criminal conviction or proof that the *defendant is no longer entitled to the relief* (versus evidence that the holder of the judgement has become a present risk to public safety);

- With respect to a proceeding alleging negligence or other fault, allows a certificate of rehabilitation to be introduced as evidence of a person’s due care in *hiring* (versus hiring and retaining) an individual;

Other

- Specifies that if an applicant for a license from the Division of Registrations provides an order of collateral relief or an order of rehabilitative relief, the licensing entity is not required to grant an applicant a license;
- Modifies existing provisions concerning expungement of juvenile delinquent records, allowing the court to expunge records when the petitioner has not been convicted of a felony *as an adult within the preceding ten years* or of a misdemeanor *as an adult within the preceding five years* and has not been adjudicated a juvenile delinquent since the termination of the court’s jurisdiction of the petitioner’s unconditional release from parole supervision;
- Replaces two references to the "judicial department" with "*judicial branch*" and makes other technical changes and conforming amendments.

*Portions of J.002 that were NOT incorporated in L.005:*

- Clarifies that the bill is not intended to apply to driver-related sanctions or restrictions;
- Replaces language in the printed bill requiring the CBI to "enter the certificate of rehabilitation into the [CCIC]" with language requiring the CBI to "include a note in the applicant’s record in the [CCIC] that the certificate of rehabilitation was issued";
- Requires the Governor to provide a copy of a pardon or clemency to the CBI, and requires the CBI to include a note in the individual’s CCIC record that the pardon or request for clemency was granted; and
- Adds a provision appropriating a total of \$382,575 cash funds and 6.2 FTE for FY 2012-13, as detailed in the following Table 2.

TABLE 2 FY 2012-13 Appropriations (with sponsor amendment J.002)			
Department/ Line item/ Purpose	Amount	FTE	Fund Source
<b>Judicial Department</b>			
<i>Courts Administration, Centrally Administered Programs</i>			
Courthouse Capital/Infrastructure Maintenance	\$75,724		CF - Judicial Stabilization Cash Fund (JSCF)
<i>Trial Courts</i>			
Trial Court Programs, Personal Services	265,575 (15,000)	5.2	CF - JSCF General Fund
Trial Court Programs, Operating Expenses	<u>7,375</u>		CF - JSCF
Total - Judicial	333,674	5.2	

TABLE 2 FY 2012-13 Appropriations (with sponsor amendment J.002)			
Department/ Line item/ Purpose	Amount	FTE	Fund Source
<b>Department of Public Safety</b>			
<i>Colorado Bureau of Investigation</i>			
Administration, Personal Services	28,485	1.0	Cash Funds (CBI Identification Unit Fund)
Administration, Operating Expenses	5,416		Cash Funds (CBI Identification Unit Fund)
Colorado Crime Information Center (CCIC), Information Technology	<u>15,000</u>		General Fund
Total - Public Safety	48,901	1.0	
<b>Totals</b>	<b><u>\$382,575</u></b>	<b>6.2</b>	<b>Total Funds</b>
	<b>0</b>	<b>0.0</b>	<b>General Fund</b>
	<b>382,575</b>	<b>6.2</b>	<b>Cash Funds</b>

**Points to Consider**

1. The Joint Budget Committee introduced a balanced budget package for FY 2012-13 based on the March 2012 Office of State Planning and Budgeting forecast. Based on 2012 legislation enacted to date, the FY 2012-13 Long Bill as sent to the Governor, and appropriations included in other budget package bills, the budget appropriates all but approximately \$100,000 of General Fund revenues projected to be available, less a statutorily required four percent General Fund reserve. This bill requires a General Fund appropriation of \$288,901 for FY 2012-13, and an annual General Fund appropriation of \$48,929 in subsequent fiscal years. This bill also increases annual General Fund revenues by an estimated \$91,000, beginning in FY 2012-13. Thus, for FY 2012-13, this bill would reduce the \$100,000 excess General Fund reserve by an estimated \$197,901. In subsequent fiscal years, this bill will increase the amount of General Fund available for other purposes by an estimated \$42,071. [Sponsor amendment J.002 results in a net General Fund revenue increase of \$91,000 beginning in FY 2012-13.]
2. This bill is anticipated to increase revenues to the Judicial Stabilization Cash Fund (JSCF) by an estimated \$783,000 annually, beginning in FY 2012-13. However, the bill is only anticipated to require appropriations from the JSCF of \$333,674 in FY 2012-13 and \$343,932 in subsequent fiscal years. Thus, the bill is anticipated to increase the amount in the JSCF that is available to cover other trial court expenses by \$449,326 in FY 2012-13 and \$439,068 in subsequent fiscal years.