


Colorado Legislative Council Staff Fiscal Note
STATE
FISCAL IMPACT

Drafting Number: LLS 12-0312	Date: March 6, 2012
Prime Sponsor(s): Rep. Nikkel; McCann Sen. Giron	Bill Status: House Judiciary
	Fiscal Analyst: Jessika Shipley (303-866-3528)

TITLE: CONCERNING CHARGING OF JUVENILES BY DIRECT FILE OF INFORMATION OR INDICTMENT IN DISTRICT COURT.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures		(\$7,740)
General Fund		(14,277)
Federal Funds		6,537
FTE Position Change		
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2012-2013: None required.		
Local Government Impact: None.		

Summary of Legislation

Under current law, juveniles who are at least 14 years old and who are charged with certain serious crimes may be prosecuted in adult court, a process known as direct filing. This bill raises the minimum age for direct filing to 16. Additionally, it limits the offenses for which a juvenile can be direct filed to class 1 or 2 felonies, violent sex offenses, and crimes of violence committed by prior violent juvenile offenders.

If, after a preliminary hearing, a district (adult) court does not find probable cause for a direct-file-eligible offense, or if such an offense is dismissed at a later date, the court is required to remand the case to the juvenile court. For cases that are direct filed, the juvenile is permitted to file a motion with the district court to transfer his or her case to juvenile court. The district court must hold a reverse-waiver hearing, at which the district attorney is permitted to respond. The bill provides a list of factors the court must consider when deciding whether to transfer a case to juvenile court.

Finally, convictions on charges that are not direct-file-eligible must be remanded to the juvenile court. If a juvenile is sentenced by the juvenile court, his or her conviction will be converted to a juvenile delinquency adjudication, making it subject to the current process for expunging juvenile records.

State Expenditures

In FY 2013-14, the bill will result in a net General Fund savings of \$7,740 because some number of juvenile offenders will no longer be tried as adults and sentenced to incarceration in adult correctional facilities. Table 1 and the following sections explain the five-year impact to the Department of Corrections (DOC) and the Department of Human Services (DHS). No costs or savings are shown in FY 2012-13 to account for the time it will take for the bill to go into effect, crimes to be committed and charged, and juvenile offenders to be tried and sentenced.

Table 1. Five-Year Fiscal Impact On DOC and DHS Facilities					
Fiscal Year	YOS (DOC) Bed Impact	YOS (DOC) Operating Cost	DYC (DHS) Bed Impact	DYC (DHS) Operating Cost	Total Cost
FY 2012-13	0.0	\$0	0.0	\$0	\$0
FY 2013-14	(3.0)	(\$185,616)	3.0	\$177,876	(\$7,740)
FY 2014-15	(6.0)	(371,232)	6.0	355,752	(15,480)
FY 2015-16	(9.0)	(556,848)	9.0	533,628	(23,220)
FY 2016-17	(12.0)	(742,464)	12.0	711,504	(30,960)
Total		(\$1,856,160)		\$1,778,760	(\$77,400)

Department of Corrections. In FY 2013-14, the DOC is expected to require a General Fund reduction of \$185,616. In FY 2010-11, there were a total of seven juvenile offenders admitted to the DOC who were under the age of 16 at the time their offense was committed. Six were admitted to the Youthful Offender System (YOS) and one was admitted to the general DOC population. No information is available about whether these juveniles have prior violent felony convictions, but the fiscal note assumes that at least three juveniles each year will not have prior violent offenses and will not be transferred to the jurisdiction of the district court. Therefore, they will no longer be direct-file-eligible under the bill and will be sentenced to the Division of Youth Corrections (DYC) in the Department of Human Services rather than to the YOS.

The annual cost to house an offender in the YOS is \$61,872. The average length of stay in the YOS is 5.2 years. Daily YOS after-care costs are \$169.51 per person and offenders spend an average of 9.8 months in the after-care program, for a total after-care cost of \$49,836 per person. These costs will be incurred after the five-year window addressed by the fiscal note.

Department of Human Services. In FY 2013-14, the department is expected to increase General Fund expenditures by \$171,339 and federal fund expenditures by \$6,537. The fiscal note assumes that the same three offenders each year who will no longer be sentenced to the YOS will be sentenced to the DYC. As there is a fixed capacity in state DYC facilities, the increase in population would likely be accommodated through contract community placements for lower-risk juvenile offenders currently housed in state facilities, the annual cost of which is \$59,292 (This is a blended rate that includes Medicaid Services expenditures, which are paid through a combination

of reappropriated General Fund moneys from the Department of Health Care Policy and Financing and federal funds).

The average length of stay for the new juvenile offenders is approximately 4.5 years, with approximately 9 months of parole for each. Annual parole costs in the NYC are currently \$8,829, for an annual prorated parole cost of \$6,622 per juvenile. These costs will also be incurred after the five-year window addressed by the fiscal note.

Judicial Branch. The bill will cause an increase in the workload of the juvenile courts and a reduction in the workload of the district courts. The net impact is expected to be minimal, given the low number of direct file cases each year, and can be absorbed within existing resources.

Departments Contacted

Corrections District Attorneys Human Services Judicial Law