

**STATE and LOCAL  
FISCAL IMPACT**

<b>Drafting Number:</b> LLS 14-0700	<b>Date:</b> January 29, 2014
<b>Prime Sponsor(s):</b> Rep. Salazar Sen. Guzman	<b>Bill Status:</b> House Judiciary
	<b>Fiscal Analyst:</b> Kerry White (303-866-3469)

**SHORT TITLE:** ELIMINATE PRISON FOR INABILITY TO PAY FINES

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>		
<b>State Expenditures</b>	<b><u>\$1,908,746</u></b>	<b><u>\$1,622,895</u></b>
General Fund	1,680,266	1,383,574
Centrally Appropriated Costs**	228,480	239,321
<b>FTE Position Change</b>	18.4 FTE	18.4 FTE
<b>Appropriation Required:</b> \$1,680,266 - Judicial Department (FY 2014-15).		

\* This summary shows changes from current law under the bill for each fiscal year.

\*\* These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

**Summary of Legislation**

Current law provides that part of a criminal sentence must include a sentence to prison if an individual criminal defendant fails to pay a fine. The bill changes this requirement so that the sentence must include notice that, if a defendant willfully fails to pay a fine or other monetary payment, the court may hold the defendant in contempt of court and sentence him or her to prison. When the court imposes a monetary payment as part of a sentence, it must notify the defendant that if he or she is unable to make the payment, he or she may ask the court for a waiver or change in payment. The bill establishes procedures for holding a defendant in contempt of court for failing to make a monetary payment.

**Background**

In state courts, collections investigators are employed to assist persons who are not indigent but are otherwise unable to pay fines immediately. The collections investigators are authorized to establish and alter payment plans as necessary. If a person fails to make payments and does not take steps to amend his or her payment plan, the court may issue a failure to pay (FTP) warrant. In the past year, there were about 160,000 payment plans in effect, but only 850 FTP warrants issued by state courts.

In municipal courts, there are no uniform guidelines requiring payment plans, although in practice many such courts conduct a hearing and the judge may establish a payment plan for the person if he or she is unable to pay and does not qualify for a waiver. As of this writing, no information was available about the number of payment plans in effect or FTP warrants issued in the past year from municipal courts.

**State Expenditures**

This bill will increase state General Fund expenditures in the Judicial Department by \$1,908,746 and 18.4 FTE in FY 2014-15 and \$1,622,895 and 18.4 FTE in FY 2015-16.

<b>Table 1. Expenditures Under HB14-1061</b>		
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Personal Services	\$1,344,244	\$1,622,895
FTE	18.4	18.4
Operating Expenses and Capital Outlay Costs	336,022	39,330
Centrally Appropriated Costs*	228,480	239,321
<b>TOTAL</b>	<b>\$1,908,746</b>	<b>\$1,622,895</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Assumptions.** The costs from the bill are based on the following assumptions:

- a person who wishes to modify a payment plan is required to motion the court and have a judge review his or her case;
- about one-third of persons will request modification of a payment plan each year;
- it will take 10 minutes of court time to modify a payment plan;
- a hearing on contempt of court is required when a defendant refuses to pay a monetary award;
- about 850 people will have a contempt of court hearing each year;
- each contempt of court hearing will require 30 minutes of court time;
- existing collections investigators staff will do the preparation work for court hearings under the bill; and
- the bill will take effect on June 1, 2014.

**Judicial Department.** To accomplish the increase in workload, a total of 4.6 FTE magistrates are required. Each magistrate requires 1.0 FTE of a division clerk, law clerk, and court reporter. Standard operating (\$950 per year) and one-time capital outlay costs (\$4,703) are included for the support staff. Standard operating (\$5,700) and one-time capital outlay costs (\$46,170) for magistrates are also included.

**Centrally appropriated costs.** 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

<b>Table 2. Centrally Appropriated Costs Under HB14-1061*</b>		
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$135,130	\$135,130
Supplemental Employee Retirement Payments	93,350	101,191
<b>TOTAL</b>	<b>\$228,480</b>	<b>\$239,321</b>

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

**Local Government Impact**

This bill could affect local governments in three ways. First, to the extent that municipal courts are not establishing payment plans and directly issuing FTP warrants for failure to pay, workload could increase. Second, to the extent that this bill increases payment plans and reduces the issuance of FTP warrants, local jail costs could be reduced. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. For the current fiscal year, the state reimburses county jails at a daily rate of \$51.45 to house state inmates. Third, the bill requires notice of process at the time of sentencing, which could increase costs for local government courts.

**Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature. It applies to sentences entered and to hearings for failure to make monetary payments conducted on or after this date.

**State Appropriations**

For FY 2014-15, the Judicial Department requires an appropriation of \$1,680,266 General Fund and an allocation of 18.4 FTE.

**State and Local Government Contacts**

Corrections  
Judicial

Counties  
Municipalities

District Attorneys  
Sheriffs