

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0729	Date: February 9, 2015
Prime Sponsor(s): Rep. Conti	Bill Status: House Judiciary
Sen. Jahn	Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: SECOND OFFENSE SENTENCE CHILD SEXUAL EXPLOITATION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue		
State Expenditures		
General Fund		Potential increase.
FTE Position Change		
Appropriation Required: None.		

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

Summary of Legislation

This bill requires the court to impose a sentence to the Department of Corrections (DOC) for a term of at least the minimum in the presumptive range for a second or subsequent offense of sexual exploitation of a child. Specifically, the case must involve offenses where the offender:

- causes, induces, entices, or permits a child to engage in, or be used for, any explicit sexual conduct for the making of any sexually exploitative material; or
- possesses with the intent to deal in, sell, or distribute, including but not limited to distributing through digital or electronic means, any sexual exploitative material.

Background

Under current law, sexual exploitation of a child (see Section 18-6-403 3(a) or 3(c), C.R.S.) is a class 3 felony. The penalty for a class 3 felony is 4 to 12 years in prison, a fine of \$3,000 to \$750,000, or both. Over the past three years, there have been approximately 40 cases per year with at least one conviction of the above offenses. No data exists about how many of these convictions involved second or subsequent offenses.

State Expenditures

This bill may affect workload and costs for state agencies in two ways. First, by requiring sentencing to the DOC, the bill has the potential to increase or decrease workload for the Judicial Department. To the extent that mandatory prison sentences cause defendants to seek a plea arrangement, workload for the trial courts and staff of any associated Judicial Department agencies (Office of the State Public Defender or the Office of the Alternate Defense Counsel, who provide representation when a defendant is determined to be indigent) may decrease. To the extent that

this provision causes more cases to go to trial, workload will increase. The fiscal note assumes that due to the severity of these cases and the fact that a conviction already results in registration as a sex offender, any workload change will be minimal.

Second, to the extent that any offenders convicted of a second or subsequent offense of sexual exploitation of a child as required under the bill are not currently being sentenced to prison, costs for the DOC will increase under HB15-1185. The fiscal note assumes that, due to the severity of this crime, offenders are currently being sentenced to prison. Should the DOC experience an increase incarceration, any required increases in appropriations can be addressed through the annual budget process. For informational purposes, offenders in prison cost the state about \$60.46 per offender per day, including the current daily rate of \$55.08 and an estimated \$5.38 per offender per day for medical care provided by the DOC.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections

District Attorneys

Judicial