

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

Drafting Number: LLS 04-0144
Prime Sponsor(s): Rep. Johnson R.
 Sen. Dyer

Date: January 13, 2004
Bill Status: House Judiciary
Fiscal Analyst: Jonathan Lurie

TITLE: CONCERNING THE ADDITION OF CERTAIN OBSCENITY OFFENSES TO THE “COLORADO SEX OFFENDER REGISTRATION ACT” THAT REQUIRES REGISTRATION UPON CONVICTION OF THE OFFENSE.

Fiscal Impact Summary	FY 2004-05	FY 2005-06	FY 2006-07
State Revenues			
General Fund	\$0	\$0	\$0
State Expenditures			
General Fund	\$0	\$17,677	\$0
GF Transfer to Corrections Expansion Reserve Fund	\$69,467	\$0	\$0
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: None			
Effective Date: Upon signature of the Governor			
Appropriation Summary for FY 2004-05: Five-year Fiscal Impact on Correctional Facilities			
Local Government Impact: Potential impact upon county jails			

Summary of Legislation

This bill adds the crime of promotion of obscenity to a minor (a class 6 felony, Section 18-7-102, C.R.S.) to the list of crimes defined as unlawful sexual behavior (Section 16-22-102(9), C.R.S.). Every offender convicted of unlawful sexual behavior, upon conviction or upon completing their prison sentence, must register as a sex offender with his or her local law enforcement agency. If passed, this bill will have an impact on the number of offenders requiring to register as sex offenders. The penalty for failure to register as a sex offender is a class 6 felony (Section 18-3-412.5, C.R.S.). The penalty for a subsequent failure to register is a class 5 felony.

State Expenditures

According to the Colorado District Attorneys Database, there are an average of two convictions a year of promotion of obscenity to a minor. The Department of Corrections estimates that 450 sex offenders were released from prison in FY 2001-02 and there were 35 admissions to prison in FY 2002-03 for failure to register as a sex offender (suggesting that approximately 10 percent of prison releases may fail to register). Assuming there will be two offenders a year that must register with approximately a 10 percent chance of failing to register, this fiscal note estimates that there will be an impact of one additional prisoner every five years. This fiscal note further assumes that an offender will be convicted of failing to

register in the first year after this bill becomes law. The typical length of stay for a class 6 felony prison sentence for failing to register as a sex offender is 12.5 months.

Five-Year Fiscal Impact on Correctional Facilities

Section 2-2-703, C.R.S., requires that bills increasing the need for prison beds cannot be passed without five years of appropriations for prison bed construction and operating costs. Construction costs are estimated to be \$69,467 per inmate bed per year. The construction costs reflect the funding needed to construct inmate beds in the year prior to when additional offenders are expected to enter the system. This lag accounts for the estimated time for criminal filing, trial, disposition, and sentence. Prison operating costs are estimated to be \$17,677 per bed per year to reflect the cost of placing an inmate in a private prison facility or in a county jail contract placement.

Five-Year Fiscal Impact on Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2004-05	0.0	\$69,467	\$0	\$69,467
FY 2005-06	1.0	\$0	\$17,677	\$17,677
FY 2006-07	0.0	\$0	\$0	\$0
FY 2007-08	0.0	\$0	\$0	\$0
FY 2008-09	0.0	\$0	\$0	\$0
Total		\$69,467	\$17,677	\$87,144

Local Government Impact

Defendants convicted of “failure to register as a sex offender” may be sentenced to county jail rather than to state prison. While the daily cost to house an offender in a county jail facility varies, the FY 2003-04 rate the state pays local jails for holding state inmates is \$46.49 per day, or \$16,969 a year. Because the court has the discretion to impose a fine, a jail sentence, or an alternative placement, the costs to local governments cannot be determined at this time.

State Appropriations

In order to comply with Section 2-2-703, C.R.S., this bill will require a five-year appropriation clause. In FY 2004-05, this bill will require a General Fund transfer of \$69,467 from the Capital Construction Fund to the Corrections Expansion Reserve Fund for prison bed construction costs. The Department of Corrections will also require a General Fund appropriation of \$17,677 in FY 2005-06 for prison bed operation costs.

Departments Contacted

Corrections Judicial Branch Public Safety Public Defender