



REVISED FISCAL IMPACT
 (replaces fiscal impact dated January 28, 2004)

Drafting Number: LLS 04-0667
Prime Sponsor(s): Rep. Cloer

Date: January 29, 2004
Bill Status: House Judiciary
Fiscal Analyst: Jonathan Lurie (303-866-2677)

TITLE: CONCERNING THE SENTENCING OF A DEFENDANT CONVICTED OF SECOND DEGREE ASSAULT UNDER THE GENERAL SENTENCING GUIDELINES IN CERTAIN CIRCUMSTANCES.

Fiscal Impact Summary	FY 2004/05	FY 2005/06	FY 2006/07
State Revenues General Fund			
State Expenditures General Fund			
FTE Position Change	0.0 FTE	0.0 FTE	0.0 FTE
Other State Impact: None			
Effective Date: July 1, 2004, and applies to offenses committed on or after that date			
Appropriation Summary for FY 2004/05: None			
Local Government Impact: None			

Summary of Legislation

This fiscal note was revised to reflect updated information regarding court sentencing trends.

Current law requires that a defendant convicted of assault in the second degree shall be sentenced, in most cases, to at least the midpoint of the presumptive range. This bill allows the court to sentence a defendant convicted of second degree assault to less than the midpoint of the presumptive range if the victim was trespassing upon the defendant's property at the time of the assault or if the defendant acted in self-defense or defense of a third person.

State Expenditures

In FY 2003, there were 906 convictions of assault in the second degree and 265 offenders sentenced to prison (29.2 percent of all convictions). This fiscal note estimates that approximately ten percent of all convictions will request a reduced sentence from the court due to the mitigating circumstances set forth in this bill. This will have an impact upon the courts and on the Department of Corrections.

Judicial Branch, minimal impact. The availability of a reduced sentence for second degree assault will translate to an increase in the time required for sentencing hearings. Both the prosecution and the defense will convey whether mitigating factors were present or not present. Assuming ten percent of all convictions would request the court for a reduced sentence with an increase of two hours per hearing, this will require 180 additional hours of the court. However, this is a minimal increase and can be absorbed within existing resources.

Department of Corrections, (\$97,400) in FY 2007-08 and each year thereafter. This fiscal note assumes that between one and two percent (or four defendants) of those sentenced to prison will receive a lesser sentence due to the passage of this bill. A reduced sentence will mean a reduced prison length of stay for approximately four prisoners. The mandatory minimum sentence for committing assault in the second degree is five years. This bill will allow the court to sentence a defendant to a period between two and five years. Assuming courts will sentence defendants in cases with mitigating circumstances to 3.5 years rather than five, this bill will create a reduced bed need of by FY 2007-08.

At an estimated prison bed operating cost of \$27,824 per year, this impact translates to a cost avoidance to the department of \$97,400 in FY 2007-08 and in each year thereafter. The table below illustrates the five-year impact on prison beds and costs. *This table is for informational purposes only and does not suggest a required five-year appropriation clause, pursuant to Section 2-2-703, C.R.S.*

Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2004/05	0.0	\$0	\$0	\$0
FY 2005/06	0.0	\$0	\$0	\$0
FY 2006/07	0.0	\$0	\$0	\$0
FY 2007/08	(3.5)	\$0	(\$97,400)	(\$97,400)
FY 2008/09	(3.5)	\$0	(\$97,400)	(\$97,400)
Total		\$0	(\$194,800)	(\$194,800)

Departments Contacted

Corrections Judicial Branch Public Defender District Attorneys Council