

**REVISED FISCAL IMPACT**

(replaces fiscal note dated April 7, 2010)

**Drafting Number:** LLS 10-0948

**Date:** May 3, 2010

**Prime Sponsor(s):** Rep. Apuan  
Sen. Newell

**Bill Status:** Senate Business, Labor, and Technology

**Fiscal Analyst:** Sara McPhee (303-866-4782)

**TITLE:** CONCERNING THE PROHIBITION OF A PERSON WHO IS SERVING A SENTENCE UNDER COMMUNITY SUPERVISION AS A RESULT OF CONVICTION FOR CERTAIN OFFENSES FROM ACTING AS A PETITION CIRCULATOR UNLESS THE PERSON RECEIVES WRITTEN PERMISSION FROM THE APPROPRIATE SUPERVISORY ENTITY PRIOR TO CIRCULATING ANY PETITION.

| <b>Fiscal Impact Summary</b>   | <b>FY 2010-2011</b> | <b>FY 2011-2012</b> |
|--|---------------------|---------------------|
| <b>State Revenue</b>   |                     |                     |
| <b>State Transfers or Diversions</b><br>Transfer from the General Fund<br>to the Capital Construction Cash Fund                                  | (\$88,867)          |                     |
| <b>State Expenditures</b><br>General Fund<br>Cash Funds- Capital Construction Fund<br>Appropriation to the Corrections Expansion<br>Reserve Fund | \$88,867            | \$14,269            |
| <b>FTE Position Change</b>   | 0.0 FTE             | 0.0 FTE             |
| <b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.   |                     |                     |
| <b>Appropriation Summary for FY 2010-2011:</b> See State Appropriations section.   |                     |                     |
| <b>Local Government Impact:</b> None.  |                     |                     |

**Summary of Legislation**

The *reengrossed* bill prohibits an individual from circulating a petition for an initiative or a referendum if the individual is on probation or parole for an offense involving unlawful sexual behavior or felony fraud, unless the individual receives written permission from either the Parole Board, the court, or an appropriate probation officer. To ensure compliance, it makes this prohibition a condition of an individual's probation or parole.

### **State Transfers or Diversions**

Pursuant to the requirements of Section 2-2-703, C.R.S., and Section 17-1-116, C.R.S., this bill transfers \$88,867 from the General Fund to the Capital Construction Fund in FY 2010-11, then appropriates the money to the Corrections Expansion Reserve Fund. Thus, this amount will not be available for General Fund appropriations. For a further explanation of this transfer and appropriation, see the section related to the five-year impact on correctional facilities.

### **State Expenditures**

*Department of Corrections (DOC).* The bill increases expenditures for the DOC by \$88,867 in FY 2010-11 and \$14,269 in FY 2011-12. The five year expenditure impact is estimated at \$117,405. These costs are based on the estimate that one time every two years a parolee or probationer who is prohibited from circulating petitions will violate this condition and have his or her parole or probation revoked. It is assumed that the parole or probation will be revoked for six months. The offenses committed by individuals who have this condition of parole or probation may vary from a felony 2 to a felony 6. For the purposes of the fiscal note, it is assumed that the individual who has his or her probation or parole revoked committed a felony 4 crime.

### **Five-Year Fiscal Impact on Correctional Facilities**

Section 2-2-703, C.R.S., specifies that no bill can be passed by the General Assembly which results in a net increase in periods of imprisonment in *state correctional* facilities unless it contains an appropriation of money sufficient to cover the increased capital construction costs and operating costs in each of the first five fiscal years of the bill. Sections 17-1-102, 104.9, and 105.5, C.R.S., authorize the department to permanently place inmates classified as medium custody and below in private contract prisons. Inmates classified higher than medium custody cannot be placed in private contract prisons, except under "correctional emergency" conditions. *The fiscal note assumes that the new inmates identified in this bill will be allocated between state correctional facilities and private contract prisons according to historical patterns.*

If an inmate is placed in a state correctional facility, the additional construction costs are estimated to be \$125,165 per inmate bed. Operating costs are \$88.60 per bed per day or \$32,339 per bed per year. It should be noted that the construction costs reflect the funding needed to construct inmate beds in the fiscal 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 sentencing. If an inmate is placed in a private contract prison, the state incurs no additional capital construction costs; however, the state pays a rate of \$52.69 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$19,232 per private prison bed per year. Departmental data indicates that 29 percent of class 4 felonies are housed in private prisons, and both the construction and operating costs presented in Table 1 have been prorated accordingly.

| <b>Table 1. Five-Year Fiscal Impact On Correctional Facilities</b> |                              |                              |                           |                   |
|--|------------------------------|------------------------------|---------------------------|-------------------|
| <b>Fiscal Year</b>   | <b>Inmate<br/>Bed Impact</b> | <b>Construction<br/>Cost</b> | <b>Operating<br/>Cost</b> | <b>Total Cost</b> |
| <b>FY 2010-11</b>  | 0.0                          | \$88,867                     | \$0                       | \$88,867          |
| <b>FY 2011-12</b>  | 0.5                          | \$0                          | \$14,269                  | \$14,269          |
| <b>FY 2012-13</b>  | 0.0                          | \$0                          | \$0                       | \$0               |
| <b>FY 2013-14</b>  | 0.5                          | \$0                          | \$14,269                  | \$14,269          |
| <b>FY 2014-15</b>  | 0.0                          | \$0                          | \$0                       | \$0               |
| <b>Total</b>   |                              |                              |                           | \$117,405         |

**State Appropriations**

For FY 2010-11, the fiscal note implies that the DOC will need an appropriation of \$88,867 from the Corrections Expansion Reserve Fund. However, the bill specifies that because the fiscal impact estimate is minor, it is an exception to the five-year appropriation requirements specified in section 2-2-703, C.R.S.

**Departments Contacted**

Corrections      Judicial      Law      State