


Colorado Legislative Council Staff Fiscal Note
FINAL
FISCAL NOTE

Drafting Number: LLS 12-0312 **Date:** May 17, 2012
Prime Sponsor(s): Rep. Nikkel; McCann **Bill Status:** Signed into Law
Fiscal Analyst: Jessika Shipley (303-866-3528)
 Sen. Giron; Neville

TITLE: CONCERNING CHARGING OF JUVENILES BY DIRECT FILE OF INFORMATION OR INDICTMENT IN DISTRICT COURT.

| Fiscal Impact Summary | FY 2012-2013 | FY 2013-2014 |
|---|--------------|------------------|
| State Revenue | | |
| State Expenditures | | (\$7,740) |
| General Fund | | (14,277) |
| Federal Funds | | 6,537 |
| FTE Position Change | | |
| Effective Date: The bill was signed into law by the Governor and took effect April 20, 2012. | | |
| Appropriation Summary for FY 2012-2013: None required. | | |
| Local Government Impact: Increased costs for local district attorneys' offices. | | |

Summary of Legislation

Under current law, juveniles who are at least 14 years old and who are charged with certain serious crimes may be prosecuted in adult court, a process known as direct filing. This bill raises the minimum age for direct filing to 16. Additionally, it limits the offenses for which a juvenile can be direct filed to class 1 or class 2 felonies; violent sex offenses; and crimes of violence and certain sex offenses committed by prior felony offenders.

If, after a preliminary hearing, a district (adult) court does not find probable cause for a direct-file-eligible offense, or if such an offense is dismissed at a later date, the court is required to remand the case to the juvenile court. For cases that are direct filed, the juvenile is permitted to file a motion with the district court to transfer his or her case to juvenile court. The district court must hold the reverse-transfer hearing at the same time as the preliminary hearing, at which the district attorney is permitted to respond. The bill provides a list of factors the court must consider when deciding whether to transfer a case to juvenile court.

Finally, convictions for misdemeanor offenses and on charges that are not direct-file-eligible must be remanded to the juvenile court. If a juvenile is sentenced by the juvenile court, his or her conviction will be converted to a juvenile delinquency adjudication, making it subject to the current process for expunging juvenile records.

State Expenditures

In FY 2013-14, the bill will result in a net General Fund savings of \$7,740 because some number of juvenile offenders will no longer be tried as adults and sentenced to incarceration in adult correctional facilities. Table 1 and the following sections explain the five-year impact to the Department of Corrections (DOC) and the Department of Human Services (DHS). No costs or savings are shown in FY 2012-13 to account for the time it will take for the bill to go into effect, crimes to be committed and charged, and juvenile offenders to be tried and sentenced.

| Table 1. Five-Year Fiscal Impact On DOC and DHS Facilities | | | | | |
|---|---------------------------------|-------------------------------------|---------------------------------|-------------------------------------|-------------------|
| Fiscal Year | YOS (DOC) Bed Impact | YOS (DOC) Operating Cost | DYC (DHS) Bed Impact | DYC (DHS) Operating Cost | Total Cost |
| FY 2012-13 | 0.0 | \$0 | 0.0 | \$0 | \$0 |
| FY 2013-14 | (3.0) | (\$185,616) | 3.0 | \$177,876 | (\$7,740) |
| FY 2014-15 | (6.0) | (371,232) | 6.0 | 355,752 | (15,480) |
| FY 2015-16 | (9.0) | (556,848) | 9.0 | 533,628 | (23,220) |
| FY 2016-17 | (12.0) | (742,464) | 12.0 | 711,504 | (30,960) |
| Total | | (\$1,856,160) | | \$1,778,760 | (\$77,400) |

Department of Corrections. In FY 2013-14, the DOC is expected to require a General Fund reduction of \$185,616. In FY 2010-11, there were a total of seven juvenile offenders admitted to the DOC who were under the age of 16 at the time their offense was committed. Six were admitted to the Youthful Offender System (YOS) and one was admitted to the general DOC population. No information is available about whether these juveniles have prior violent felony convictions, but the fiscal note assumes that at least three juveniles each year will not have prior violent offenses and will not be transferred to the jurisdiction of the district court. Therefore, they will no longer be direct-file-eligible under the bill and will be sentenced to the Division of Youth Corrections (DYC) in the Department of Human Services rather than to the YOS.

The annual cost to house an offender in the YOS is \$61,872. The average length of stay in the YOS is 5.2 years. Daily YOS after-care costs are \$169.51 per person and offenders spend an average of 9.8 months in the after-care program, for a total after-care cost of \$49,836 per person. These costs will be incurred after the five-year window addressed by the fiscal note.

Department of Human Services. In FY 2013-14, the department is expected to increase General Fund expenditures by \$171,339 and federal fund expenditures by \$6,537. The fiscal note assumes that the same three offenders each year who will no longer be sentenced to the YOS will be sentenced to the DYC. As there is a fixed capacity in state DYC facilities, the increase in population would likely be accommodated through contract community placements for lower-risk juvenile offenders currently housed in state facilities, the annual cost of which is \$59,292 (This is a blended rate that includes Medicaid Services expenditures, which are paid through a combination of reappropriated General Fund moneys from the Department of Health Care Policy and Financing and federal funds).

The average length of stay for the new juvenile offenders is approximately 4.5 years, with approximately 9 months of parole for each. Annual parole costs in the DYJ are currently \$8,829, for an annual prorated parole cost of \$6,622 per juvenile. These costs will also be incurred after the five-year window addressed by the fiscal note.

Judicial Branch. The bill will cause an increase in the workload of the juvenile courts and a reduction in the workload of the district courts. Even with increased transfer hearings, the net impact is expected to be minimal, given the low number of direct file cases each year, and can be absorbed within existing resources.

Office of the State Public Defender (OSPD). The OSPD represents juvenile defendants in approximately 30 direct file cases each year. Approximately half of those cases will no longer be eligible for direct file under the bill and will now be handled as juvenile cases, which require less work on the part of the OSPD. For those that are still direct-file-eligible, additional preparation time and expert witness time will be required for the reverse-transfer hearings that are likely to happen. However, due to the low number of cases handled by the OSPD each year and the transfer of some of those cases to the juvenile level, the net impact is expected to be minimal and will be absorbed within existing resources.

Local Government Impact

The bill is expected to increase costs for local governments due to the likelihood of new reverse-transfer hearings for the population of juvenile offenders who will remain eligible for direct file. These hearings will be held simultaneously with the preliminary hearing required by the bill and will be an additional step in the process. As an example, the Denver District Attorney's Office estimates that the bill will require an additional 3.5 FTE at a cost of \$486,000 to manage the increase in preparation time for the reverse-transfer hearings. The Denver District Attorney also estimates that the costs for expert witnesses to testify at the hearings will be \$1,400 to \$1,800 per witness per hearing. While costs have not been estimated for other district attorneys' offices around the state, the fiscal note assumes they will also increase.

Departments Contacted

Corrections
Judicial

District Attorneys
Law

Human Services