

**STATE
FISCAL IMPACT**

Drafting Number: LLS 09-0014
Prime Sponsor(s): Rep. Looper
 Sen. Morse

Date: January 26, 2009
Bill Status: House Judiciary
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TITLE: CONCERNING AN INCREASE IN THE LENGTH OF THE STATUTE OF LIMITATIONS FOR VEHICULAR HOMICIDE.

Fiscal Impact Summary	FY 2009-2010	FY 2010-2011
State Revenue Cash Funds - Fines Collection Cash Fund	< \$5,000	< \$5,000
State Transfers or Diversions Transfer from the General Fund to the Capital Construction Fund	(\$114,587)	\$0
State Expenditures General Fund Cash Funds - Capital Construction Fund appropriation to the Corrections Expansion Reserve Fund	\$114,587	\$28,286 0
FTE Position Change	0.0 FTE	0.0 FTE
Effective Date: July 1, 2009		
Appropriation Summary for FY 2009-2010: See State Appropriations section		
Local Government Impact: None		

Summary of Legislation

This bill extends the statute of limitations for vehicular homicide from three years to five years. Vehicular homicide may be a class 3 or class 4 felony, depending on the presence of alcohol or drugs.

State Revenue

A person convicted of a class 3 felony may be subject to a fine ranging from \$3,000 to \$750,000 and the fine for a class 4 felony ranges from \$2,000 to \$500,000. Fine revenue is deposited into the Fines Collection Cash Fund, which is administered by the Judicial Branch. Fines are imposed at the discretion of the court, but can be difficult to collect. Given the relatively small number of offenders who are expected to be convicted of this crime, the fiscal note anticipates less than \$5,000 in fine revenue per year.

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 \$114,587 from the General Fund to the Capital Construction Fund in FY 2009-10, 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.

Based on the December 2008 Legislative Council Staff revenue forecast, revenue collections for FY 2009-10 will be insufficient to fully fund the 6 percent spending limit. Therefore, the increased funding required by this bill will further reduce the amount of money available for General Fund appropriations in the state's operating budget. For FY 2009-10, the amount is \$114,587.

State Expenditures

Judicial Branch. Between FY 2005-06 and FY 2007-08 the Judicial Branch handled 173 cases where vehicular homicide was at least one of the charges in the case. While this bill will allow more offenses to be filed, it is not expected that the number of new cases will increase the trial courts' workload by a significant amount. Similarly, the bill has the potential to increase the probation caseload, however it is assumed that the bill will affect very few cases. Any new cases to the courts and probation services will be absorbed within existing appropriations.

Department of Corrections (DOC). This bill is expected to increase costs for the DOC by \$114,587 in FY 2009-10 and \$28,286 in FY 2010-11. The five-year costs are estimated at \$200,855, as indicated in Table 1. Because the class 3 felony vehicular homicide offense involves a driver who is under the influence of drugs or alcohol, it is assumed that those drivers will be apprehended at the scene of the accident and a longer statute of limitations will not be relevant for those cases. The bill is expected to generate one new admission of a class 4 felon every five years. The average length of stay for a class 4 felony is 36.6 months.

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 \$150,773 per inmate bed. Operating costs are \$83.25 per bed per day or \$30,386 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 \$59.28 per bed per day for inmates placed in private prisons. The total cost to the department is therefore \$21,637 per private prison bed per year. Departmental data indicates that 24 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.

Table 1 Five-Year Fiscal Impact On Correctional Facilities				
Fiscal Year	Inmate Bed Impact	Construction Cost	Operating Cost	Total Cost
FY 2009-10	1.0	\$114,587	\$0	\$114,587
FY 2010-11	1.0	\$0	\$28,286	\$28,286
FY 2011-12	1.0	\$0	\$28,286	\$28,286
FY 2012-13	1.0	\$0	\$28,286	\$28,286
FY 2013-14	0.05	\$0	\$1,414	\$1,414
Total		\$114,587	\$86,272	\$200,859

State Appropriations

For FY 2009-10, this bill requires a transfer of \$114,587 from the General Fund to the Capital Construction Fund and an appropriation of the same amount to the Corrections Expansion Reserve Fund. The bill also requires appropriations to the Department of Corrections from FY 2010-11 through FY 2013-14. These costs are identified in Table 1.

Departments Contacted

Corrections Judicial