



Colorado
Legislative
Council
Staff

SB16-181

REVISED
FISCAL NOTE

(replaces fiscal note dated April 11, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-1200 Date: April 29, 2016
Prime Sponsor(s): Sen. Woods; Jahn Bill Status: Senate Second Reading
Rep. Kagan; Dore Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: SENTENCING JUVENILES CONVICTED OF CLASS 1 FELONIES

Fiscal Impact Summary	FY 2015-2016 (Current Year)	FY 2016-2017	FY 2017-2018
State Revenue			
State Expenditures	Workload increase.	Decrease - see State Expenditures section.	
Appropriation Required: None.			
Future Year Impacts: Ongoing decrease in state expenditures.			

Summary of Legislation

This bill, **as amended by the Senate Judiciary Committee**, requires that a person convicted of a class 1 felony between July 1, 1990, and July 1, 2006, for an offense committed while a juvenile be sentenced according to the offense. The bill allows for offenders who were sentenced to a life sentence without the possibility of parole for a class 1 felony committed as a juvenile between July 1, 1990, and July 1, 2006, to petition the court for a resentencing hearing. It specifies factors that can be considered in order to make a finding of the presence of extraordinary mitigating circumstances, such as the offender's age and maturity level at the time of the crime, and his or her capacity for rehabilitation.

Felonies other than murder in the first degree. If the person not convicted of murder in the first degree or murder in the first degree based on a theory of complicity, the court may sentence the offender to life imprisonment with the possibility of parole after 40 years, less any earned time granted.

Murder in the first degree. If the person was convicted of murder in the first degree or murder in the first degree based on a theory of complicity, the court may sentence the offender to life imprisonment with the possibility of parole after 40 years, less any earned time granted, or to a determinate term of 30 to 50 years in prison, less any earned time granted.

Determinate sentencing. If the court issues a determinate sentence of 30 to 50 years, it is required to impose a mandatory 10 year period of parole, for which the offender is eligible after serving 75 percent of his or her sentence, less any earned time accrued. The State Board of Parole may begin conducting parole hearings for existing offenders one year after the effective date of this bill.

Life sentences. If the court issues a life sentence, when that offender is released after serving 40 years, less any earned time accrued, he or she is to remain on parole for the remainder of his or her natural life.

Earned time. The bill clarifies that its intent is to ensure that the Department of Corrections (DOC) apply earned time calculations retroactively, as if the offender had been eligible for earned time awards from the beginning of his or her incarceration, as well as proactively. The bill clarifies that earned time may not reduce the sentence of a person convicted as an adult for a class 1 felony committed while the person was a juvenile by more than 25 percent.

Background

Under current law, a life sentence for a class 1 felony committed by a juvenile requires the possibility of parole after 40 years. Persons who are sentenced to a life term without the possibility of parole do not accrue earned time.

As of this writing, there were 48 offenders that meet this criteria within the custody of the DOC that would meet the bill's criteria for resentencing. The length of stay for these offenders ranges from 7.9 years to 23 years. Of this number, 39 offenders have additional sentences, many of which are consecutive to the current life sentence.

State Expenditures

Overall this bill is anticipated to decrease state expenditures by an indeterminate amount. Initially, in FY 2015-16 and FY 2016-17, workload will increase for courts to hold resentencing hearings for up to 48 offenders that currently meet the conditions of the bill. This workload is minimal and will not require an increase in appropriations for any agency in the Judicial Department.

In the future, the bill is expected to decrease costs for the DOC by potentially reducing sentences for existing offenders and lessening the amount of time future offenders must be incarcerated and the amount of time required prior to consideration of parole. As the results of the resentencing hearings and future sentencing decisions of the courts are not known, it is not possible to determine how many sentences will be reduced and when cost savings will begin. It should be noted that a portion of the savings will be reduced by an offsetting increase in parole supervision costs.

Local Government Impact

The bill increases costs and workload for district attorneys to participate in resentencing hearings. As of this writing, only one district attorney has responded with cost estimates: the Denver District Attorney estimates costs of approximately \$293,000.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Corrections District Attorneys Information Technology Judicial Criminal