



**Colorado
Legislative
Council
Staff**

SB17-289

FISCAL NOTE

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

Drafting Number: LLS 17-1101
Prime Sponsor(s): Sen. Gardner

Date: April 18, 2017
Bill Status: Senate Judiciary
Fiscal Analyst: Amanda Hayden (303-866-4918)

BILL TOPIC: TRANSFER DYC ADULT OFFENDERS TO DOC

Fiscal Impact Summary	FY 2017-2018	FY 2018-2019
State Revenue		
State Expenditures	See State Expenditures section.	
General Fund		
Appropriation Required: None.		
Future Year Impacts: Ongoing workload increase and potential change in state expenditures.		

Summary of Legislation

This bill states that any individual committed to the Division of Youth Corrections (DYC) within the Department of Human Services (DHS) may be transferred to the Department of Corrections (DOC) if that individual is at least 18 years old and is convicted of possession of a deadly weapon, any crime of violence, or possession or distribution of a controlled substance. Before filing a motion with the court, DHS first must certify that the individual is no longer benefitting from its programs and is unfit or unsafe for DYC facilities. Once DHS initiates the transfer request, the court must schedule a hearing and order the transfer if it finds, by a preponderance of the evidence, that the individual meets the criteria for transfer. Once transferred, the individual must serve the remainder of his or her juvenile sentence in the custody of DOC as if he or she had been sentenced as an adult offender.

Background

In DYC facilities, 32 individuals committed serious assaults in FY 2014-15 and 24 in FY 2015-16. On average, eight of these incidents did not result in a conviction, and in five cases, the individual was convicted and sentenced to DOC. There are no reported convictions for possession or distribution of a controlled substance or possession of a deadly weapon.

State Expenditures

Beginning in FY 2017-18, the bill may increase workload in DHS and the Judicial Department by a minimal amount. It may decrease expenditures in DHS and increase expenditures in DOC.

Department of Human Services. For any committed individual at least 18 years old in NYC's custody convicted of the crimes listed in the bill, DHS can petition for a transfer of that individual to the custody of DOC. The department estimates that in approximately five cases per year, a youth will commit a serious offense, be convicted of assault, and warrant a transfer to DOC. Initiating such a transfer may result in a minimal increase in workload for the department. Should the court order any individuals to be transferred to DOC, General Fund expenditures in DHS will decrease. The cost per day per committed youth in NYC facilities is \$232.68. The fiscal note assumes that any increase in workload or decrease in expenditures will not be realized until FY 2017-18, due to the time required for criminal filing, trial, and disposition of the crime that can trigger a transfer, as well as the time required for the transfer hearing. As it is unknown in how many cases the court will order the transfer, the exact impact to expenditures is unknown.

Department of Corrections. As described above, the bill may result in a transfer of individuals from NYC to DOC, beginning in FY 2017-18. This may increase General Fund expenditures in DOC to house new offenders. The fiscal note assumes that DHS will initiate transfers for approximately five individuals per year. It is unknown in how many of these cases the court will order the transfer, when the individual(s) will be placed in the custody of DOC, and whether or not they will serve their remaining juvenile sentences and any new sentences concurrently or consecutively. Offenders placed in a private contract prison cost the state about \$60.00 per offender per day, including the current daily rate of \$56.02 and an estimated \$3.98 per offender per day for medical care provided by the DOC. Future costs to DOC to conduct parole hearings and to supervise any new offenders on parole may also increase as a result of these transfers.

Judicial Department. The bill may increase workload for trial courts and the Office of the State Public Defender (OSPD) and Office of the Alternate Defense Counsel (OADC). The bill requires a hearing whenever DHS petitions to have an individual transferred from NYC to the custody of DOC. Because of the relatively small number of cases that may be eligible for transfer, the increase in workload for trial courts is expected to be minimal and requires no increase in appropriations. If the intention of the bill is for individuals deemed indigent to be provided state-appointed counsel, then workload for OSPD and OADC may increase; any such increase is assumed to be minimal. If counsel are not required to be present, there will be no impact to OSPD or OADC.

Effective Date

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

Technical Note

The bill does not specify whether or not individuals have a right to counsel at the transfer hearing. As noted above, if indigent individuals are provided with state-appointed counsel, workload for OSPD and OADC will increase. If counsel are not required to be present, there will be no workload impact to their offices.

State and Local Government Contacts

Corrections
Information Technology

Human Services
Judicial