



**Colorado
Legislative
Council
Staff**

Bill 10

FISCAL NOTE

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

Drafting Number: LLS 18-0306
Prime Sponsor(s):

Date: October 31, 2017
Bill Status: Sentencing in the Criminal Justice System Interim Study Committee Bill Request.

Fiscal Analyst: Josh Abram (303-866-3561)

BILL TOPIC: RESTITUTION INTEREST AND CONTINUATION

Fiscal Impact Summary	FY 2018-2019	FY 2019-2020
State Revenue Cash Funds	Minimal reduction. See State Revenue section.	
State Expenditures	up to \$2,604,012	up to \$1,960,204
General Fund	2,574,715	1,928,243
Centrally Appropriated Costs	29,297	31,961
FTE Position Change	6.3 FTE	6.9 FTE
Appropriation Required: \$2,574,715 - Judicial (FY 2018-19)		
Future Year Impacts: Ongoing revenue reduction and expenditure increase.		

NOTE: While all agencies were canvassed for this analysis, not all agencies responded with complete information. Therefore, this analysis should be considered preliminary. It will be updated as more information becomes available.

Summary of Legislation

As a condition of a sentence to probation, current law allows the court to order that a defendant make full financial restitution to the injured party within a specified period of time. Restitution must be ordered by the court as a condition of probation.

This bill, **requested by the Sentencing in the Criminal Justice System Interim Study Committee**, prohibits the courts from continuing a defendant's term of probation solely due to the failure to pay all of the restitution owed. The bill also clarifies that restitution can be collected after the termination of probation or parole.

Under current law, restitution accrues simple interest at the rate of eight percent per year. The bill changes the interest rate to two percent above the discount rate set by the federal reserve bank of Kansas City, as annually certified by the Colorado Secretary of State.

State Revenue

The bill may reduce the amount of fee revenue collected by judicial districts to support probation. Under current law, defendants may be charged \$50 per month while on probation; however, it is common practice to waive supervision fees if the offender's term is extended only due to a remaining restitution amount. To the extent that periods of probation that would have been extended to provide more time to complete restitution will now be terminated at the scheduled conclusion of the probationary period, this allowable fee revenue is eliminated. Any reduction in fees collected is anticipated to be minimal.

State Expenditures

For FY 2018-19, the bill increases state General Fund expenditures by up to \$2.6 million and 6.3 FTE. For FY 2019-20, increased General Fund expenditures are up to \$2.0 million and 6.9 FTE.

Under current law, restitution accrues simple interest at the rate of eight percent annually. The collections program in the Judicial Department works with defendants to arrange restitution payment plans, based partially on the defendants ability to pay. The collections program must track and hold probationers accountable for the full conditions of their probation, despite having completed the physical length of the probation period, thus increasing workload for the collections program to investigate and enforce restitution orders. The bill will also reduce the amount of restitution collected for and allocated to victims by changing the interest rate calculation. The bill applies this interest rate change to restitution entered before, on, or after the bill's effective date. Increased state expenditures are displayed in Table 1 and described below.

Table 1. Expenditures Under Bill 10 Sentencing in the Criminal Justice System Interim Study Committee		
Cost Components	FY 2018-19	FY 2019-20
Personal Services	\$320,860	\$350,029
FTE	6.3 FTE	6.9 FTE
Operating Expenses and Capital Outlay Costs	38,906	5,985
Postage and Document Management	132,500	132,500
Contracted Information Technology	642,720	0
Restitution Collections	1,439,729	1,439,729
Centrally Appropriated Costs*	29,297	31,961
TOTAL	\$2,604,012	\$1,960,204

* Centrally appropriated costs are not included in the bill's appropriation.

Personal Services. As of October 2017, there are 8,007 active restitution probation cases with about \$249.0 million assessed. The current balance due for these cases is about \$220.0 million, reflecting an average of about \$28,000 per case. It is estimated that roughly one half of these offenders released from probation will require an additional 3 staff hours in the program to research, investigate, interview and enforce restitution orders, requiring an additional 12,011 hours per year, equaling about 5.8 FTE.

Further, to report the amounts assessed in cases with joint and several restitution obligations will require extensive manual review. There are 1,522 active probation cases with joint and several restitution obligations remaining. With the same estimate of 3 hours of additional work required for at least one-half of these cases, workload in the program increases by 2,283 hours per year, equaling about 1.1 FTE. Year 1 FTE calculations are prorated to reflect the General Fund pay day shift.

Since personal services in the Judicial Department are increased to manage the payment of restitution probation cases in roughly 4,000 cases, a slight decrease in workload is anticipated for probation offices in the judicial districts, since none of these defendants will remain on probation in the judicial district. Instead, these individuals will have restitution orders enforced by the state office in the Judicial Department.. This change in effort has not been estimated. Any change in appropriations will be addressed through the annual budget setting process.

Postage and document management. The bill increases printing and mailing costs to notify defendants and victims of the interest rate changes and the total amount of anticipated restitution. Applying the bill to 98,124 cases statewide, and assuming each case requires one letter sent to the defendant and at least one victim. However, since many cases have multiple victims, an estimated 250,000 posted letters will notify defendants and victims of the changes to restitution. Printing and mailing one letter costs approximately \$0.53. Therefore, the total estimated printing and mailing costs is \$132,500.

Contracted information technology. The bill requires that restitution interest be recalculated in all cases that were previously charged interest. This will require refunding defendants in cases where the interest charged meets the new certified rate, and a negative receivable must be entered in the case. In addition, all restitution interest on and after September 2018 will require the new certified rate. Information technology systems must be updated to charge the correct interest rate. The necessary work must be completed in FY 2018-19 and is estimated to require two programmers and one IT Business Analyst at a contracted rate of \$103 per hour.

Restitution collections. The bill changes the interest rate applicable to all cases with orders for restitution entered before, on or after September 1, 2018, affecting approximately 98,124 cases statewide, having a dollar value of about \$246.0 million in restitution interest assessed. As of October 2017, there were 13,480 assessments where restitution and interest obligations were paid in full. This bill requires that the state adjust and refund these overpayments of interest to defendants, estimated at about \$1.5 million annually. Assuming the state will not ask victims to make these reimbursements, a General Fund appropriation will be needed. This estimate does not include those defendants who will pay their interest assessments in full (at the higher interest rate under current law) between now and September 1, 2018.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under Bill 10 Sentencing in the Criminal Justice System Interim Study Committee		
Cost Components	FY 2018-19	FY 2019-20
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$546	\$596
Supplemental Employee Retirement Payments	28,751	31,365
TOTAL	\$29,297	\$31,961

Effective Date

The bill takes effect September 1, 2018, if the General Assembly adjourns on May 9, 2018, as scheduled, and no referendum petition is filed. The bill applies to orders for restitution entered before, on, or after September 1, 2018.

State Appropriations

For FY 2018-19, the bill requires an appropriation of \$2,574,715 General Fund to the Judicial Department and an allocation of 6.3 FTE.

State and Local Government Contacts

Judicial Corrections Information Technology State