

## **SUPPLEMENTAL INFORMATION PROVIDED IN LEGISLATIVE FISCAL NOTE**

Submitted to the Comprehensive Sentencing Review Task Force

December 9, 2010

### **RECOMMENDATION**

#### **CSR-1**

Require that Legislative Council provide additional information in the fiscal note provided to the general assembly when a bill:

- creates a new criminal offense
- increases or decreases the crime classification of an existing criminal offense
- changes an element of an existing offense in such a way that the offense would create a new factual basis for the offense

The additional information provided in the fiscal note would include:

- whether the offense proposed in the legislation can be already charged under existing law
- whether the crime classification proposed in the bill is consistent with existing offenses that are of a similar degree of seriousness
- how often this proposed new crime is likely to be charged

### **FURTHER DISCUSSION**

This recommendation is intended to guide the Colorado General Assembly in making a determination of whether a proposed new criminal law is needed and whether the proposed crime classification is consistent with the seriousness of the offense relative to other crimes. The additional information provided by Legislative Council will not draw any policy conclusions or make any assessment of whether the bill would further public safety.

Legislative Council is the general assembly's nonpartisan research agency that, in addition to other responsibilities, is required to prepare a fiscal note. The fiscal note provides a summary of the proposed law, an explanation of its fiscal impact on state and local government revenue and spending, and an explanation of how it will be implemented. Fiscal notes are based on a set of assumptions that take into account information collected from state agencies, local governments, and other entities or sources. Fiscal notes are updated throughout the legislative process to reflect amendments adopted that change the proposed measure's fiscal impact.

### **RELEVANT STATUTES**

#### **CRS § 2-2-322. Fiscal notes.**

(1) The general assembly shall provide by rule for legislative service agency review of the fiscal impact of legislative measures.

(2) The general assembly shall provide by rule, as recommended by the executive committee of legislative council, for legislative service agency review of the fiscal impact of legislative measures which include the creation or increase of any fee collected by a state agency. The fiscal information on such measures shall include the average amount of such fee collected annually by

such agency from each individual, family, or business, whichever is applicable, paying such fee and a projection of the average amount of such fee that will be collected from each individual, family, or business subsequent to the creation of or increase in such fee.

(3) (a) Each state department, agency, or institution shall cooperate with and provide information on the fiscal impact of a legislative measure in the manner requested by the staff of the legislative council for consideration by the staff in connection with the preparation of a fiscal note for the measure.

(b) The state department, agency, or institution shall substantiate the calculation of the fiscal impact of the legislative measure in its response to a request for information made pursuant to paragraph (a) of this subsection (3) by providing any documentation that clearly identifies any assumptions supporting that calculation and a narrative discussion of the justification for any increase or decrease in workload.

(c) The state department, agency, or institution shall meet the deadlines established by the staff of the legislative council for providing a response to a request for information made pursuant to paragraph (a) of this subsection (3) or shall specify the need for additional time to provide the response. If additional time is required to respond to the request for information, the staff of the legislative council shall set a reasonable time for providing the information.

(d) (I) The state department, agency, or institution shall not modify the amount of the fiscal impact that was originally calculated for a legislative measure after the staff of the legislative council has released and made public the fiscal note for such measure unless:

(A) The measure has been amended;

(B) There is newly discovered information that was previously unavailable that warrants modification of the original calculation and narrative submitted by the state department, agency, or institution; or

(C) Technical errors are discovered that warrant modification of the original calculation and narrative submitted by the state department, agency, or institution.

(II) Information supporting a modification to the fiscal impact shall be submitted in the manner requested by the staff of the legislative council by the head of the state department, agency, or institution

**Source:** **L. 88:** Entire section added, p. 305, § 2, effective May 23. **L. 94:** Entire section amended, p. 1405, § 1, effective July 1. **L. 2009:** (3) added, (HB 09-1112), ch. 40, p. 155, § 1, effective August 5.

**CRS § 2-2-701. General assembly - bills regarding the sentencing of criminal offenders - legislative intent.**

(1) and (2) Repealed

(3) On and after July 1, 1994, any bill which is introduced at any session of the general assembly which affects criminal sentencing and which may result in a net increase or a net decrease in periods of imprisonment in state correctional facilities shall be reviewed by the director of research of the legislative council for the purpose of providing information to the general assembly on the long-term fiscal impact which may result from the passage of the bill, including the increased capital construction costs and increased operating costs for the first five fiscal years following passage.

**Source:** **L. 91:** Entire part added, p. 390, § 1, effective July 1. **L. 94:** (3) added, p. 1097, § 7, effective May 9; (1) and (2) repealed, p. 1714, § 1, effective July 1.