

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor	
<p>Bill Number: House Bill 10-1081</p> <p>Sponsors: <i>Rep. Priola</i> <i>Sen. Steadman</i></p> <p>The act relocates provisions of law pertaining to money laundering. Currently, money laundering is part of the Uniform Controlled Substances Act of 1992. The bill places money laundering under criminal offenses involving fraud and adds money laundering to the offenses that make up a racketeering activity as a part of the Colorado Organized Crime Control Act.</p>	<p>Short Title: Money Laundering Criminal Fraud</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p>The bill relocates the money laundering statute from the drug laws to the fraud laws. This enables prosecutors to charge individuals with money laundering for an increased number of crimes where previously a money laundering charge had to be related to drug activity. It is estimated that the Department of Corrections (DOC) will see one new offender every five years. For FY 2010-11, the DOC will require an appropriation of \$91,370 from the Corrections Expansion Reserve Fund, plus other 5-year costs associated with new admissions to the department. The appropriation for this bill is tied to the passage of the House Bill 10-1338, which creates a General Fund savings.</p>
<p>Bill Number: House Bill 10-1083</p> <p>Sponsors: <i>Rep. B. Gardner</i> <i>Sen. Steadman</i></p> <p>The act authorizes the DOC to enter into a lease-purchase agreement, for up to 12 years, to purchase a day surgery center. The surgery center is to be located at the Denver Reception and Diagnostic Center. Under the act, the department is authorized to execute a lease-purchase agreement of up to \$2.8 million in principal.</p>	<p>Short Title: Department of Corrections Surgery Unit Lease Purchase</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p>No new state expenditures are required for the implementation of this act. The DOC will have savings of \$601,920 annually from performing surgeries at the DOC surgery facility rather than contracting with hospitals. The fiscal note assumes that the DOC will use all of the savings to pay the annual lease payments. The state will enter into a contract to purchase a modular building that will be located at the Denver Reception and Diagnostic Center. The facility will be delivered equipped as a surgery center. The fiscal note assumes that no payments will be made until the facility is operational. Any savings in excess of the annual lease payments will be addressed through the annual budget process.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)	
<p>Bill Number: House Bill 10-1089</p> <p>Sponsors: <i>Rep. Waller</i> <i>Sen. Newell</i></p> <p>The act requires that a parolee who is designated by the court as a sexually violent predator (SVP), and has his or her parole revoked by the State Parole Board, be confined to a place of confinement designated by the executive director of the DOC. Currently, at the discretion of the parole board, some individuals on revoked parole may spend up to 180 days in community return to custody facilities (CRCF), which are contract facilities with a significant amount of freedom and flexibility regarding offenders.</p>	<p>Short Title: No Sexually Violent Predators in Return-to-custody Facilities</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The act is assessed as having no fiscal impact. In FY 2008-09, 3 SVPs spent a total of 73 days in a CRCF. This act requires those 3 individuals to be placed in a facility supervised more closely by the DOC. The fiscal note assumes that those offenders will be placed in private prisons, which have the same daily rate per offender as a CRCF, but a much higher supervision level. As such, the act will not affect state revenues or expenditures.</p>
<p>Bill Number: House Bill 10-1109</p> <p>Sponsors: <i>Rep. McCann</i> <i>Sen. Mitchell</i></p> <p>The act clarifies that the term "employee," for workers' compensation purposes, includes an inmate of a city, county, or city and county jail or a DOC facility who is working, performing services, or participating in a training, rehabilitation, or work release program that is certified by the federal Prison Industry Enhancement Certification Program (PIECP). Public entities are authorized to select one or more worker's compensation insurance methods. Finally, workers' compensation benefits for an injury or occupational disease arising from an inmate's participation in a PIECP-certified program will not be suspended for the period of time during which the inmate is incarcerated.</p>	<p>Short Title: Inmate Work Program Workers' Comp</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p style="padding-left: 20px;">The act is assessed as having no fiscal impact. Participation in the PIECP is limited to a total of 50 jurisdictions nationwide. Currently, 37 state and 4 county-based certified correctional industry programs (including the state of Colorado) operate in the United States. Only 9 additional programs may be certified by the Bureau of Justice Assistance and it is unlikely that any of those will be housed in Colorado city or county jails. If that were to happen, the city or county where the program was housed would be required to provide workers' compensation coverage for all inmates employed by the program. Such coverage would increase costs for the local government, depending on the total number of jail inmates employed. The state-level PIECP-certified program, Colorado Correctional Industries, Inc., is self-funded and already provides workers' compensation coverage for its inmates.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1112**

Short Title: **Correctional Education Vocational Program Standards**

Sponsors: *Rep. Miklosi*
Sen. Newell

Status: Signed into Law

The act adds vocational training to the Correctional Education Program offered to offenders in the DOC. It changes the objectives of the program to state that every offender in a correctional facility who has the expectation of release from custody within five years and lacks basic and functional literacy skills must receive basic education instruction and have the opportunity to acquire at least entry-level marketable vocational skills.

Appropriations:

The act is assessed as having no fiscal impact. The DOC is encouraged, rather than required, to use a vocational skills assessment for offenders in the Correctional Education Program. Without such a requirement, the fiscal note assumes that the department will not change its current practices with regard to the program. Additionally, the final act eliminated several of the reporting requirements included in the introduced bill. The Office of Planning and Analysis will manage the remaining reporting requirements using existing resources. Finally, the DOLE already publishes the information required by the act and will not incur additional costs.

On or before December 31, 2010, the DOC is required to develop a plan for each educational or vocational program offered as a part of the program. The department is encouraged to use a vocational skills assessment to determine the vocational needs of each offender who is eligible for the program, and assign him or her to a program based on such an assessment.

The program must use curriculum that is either approved by the Department of Education or the State Board for Community Colleges and Occupational Education or described as part of an agreement or contract with school districts, charter schools, private schools, community colleges, junior colleges, state colleges and universities, trade unions, private occupational schools, private businesses, the Colorado Department of Labor and Employment (DOLE), state and local governments, or appropriate private agencies. The DOLE is required to provide the DOC on an annual basis with data on current market trends and labor needs in Colorado.

When considering an offender for transfer, the department must take into account the enrollment of the offender in the program unless he or she is granted parole or placed in a community corrections facility. If the offender is transferred to another DOC facility, the department is encouraged to give the offender priority for placement in a comparable educational or vocational program, provided one exists at the new facility.

The bill creates a new annual reporting requirement for the DOC concerning educational and vocational programs and specifies the data that must be collected and reported.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)	
<p>Bill Number: House Bill 10-1277</p> <p>Sponsors: <i>Rep. DeGrosso</i> <i>Sen. Steadman</i></p> <p>Current law prohibits an employee, contractor, or volunteer of a correctional facility from engaging in sexual conduct with an individual in the facility's custody. This act extends that prohibition to employees, contractors, or volunteers of juvenile detention or commitment centers. Sexual conduct in a correctional institution can be a class 1 misdemeanor, a class 6 felony, or a class 5 felony, depending on the circumstances of the crime.</p>	<p>Short Title: Sexual Conduct in Correctional Facilities</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p style="margin-left: 40px;">It is expected that one offender will be sentenced to the DOC every five years at the class 6 felony level. The average length of stay for a class 6 felony sex crime is 13.9 months. For FY 2010-11, the DOC requires an appropriation of \$83,861 from the Corrections Expansion Reserve Fund, plus other 5-year costs associated with new admissions to the department. The appropriation for this act was tied to the passage of the House Bill 10-1338, which created a General Fund savings.</p>
<p>Bill Number: House Bill 10-1334</p> <p>Sponsors: <i>Rep. S. King</i> <i>Sen. Steadman</i></p> <p>The act amends the criminal statutes concerning public indecency and indecent exposure in the following ways:</p> <ul style="list-style-type: none"> • moves masturbation from the public indecency statute to the indecent exposure statute; • moves the knowing exposure of a person's genitals with the purpose of causing affront or alarm from the indecent exposure statute to the public indecency statute; • removes an act of deviate sexual intercourse from the public indecency statute; • makes a subsequent offense of exposing a person's genitals with the purpose of causing affront or alarm a class 1 misdemeanor; and • makes the exposure of a person's genitals with the intent to arouse or satisfy the sexual desire of any person part of the indecent exposure statute. <p>Public indecency is a class 1 petty offense and indecent exposure is a class 1 misdemeanor.</p>	<p>Short Title: Public Indecency and Indecent Exposure</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p style="margin-left: 40px;">The act is assessed as having no fiscal impact. It makes masturbation a misdemeanor rather than a petty offense; however, research indicates that district attorneys already are charging individuals engaging in masturbation at the misdemeanor level provided the individual was exposing his or her genitals. Therefore, moving the crime of masturbation to the misdemeanor of indecent exposure will result in few new misdemeanor cases.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1338**

Short Title: **Probation Eligible Two Prior Felonies**

Sponsors: *Rep. McCann*
Sen. Steadman

Status: Signed into Law

Current law prohibits a defendant from applying to the court for probation if he or she has two or more prior felony convictions. The act allows individuals with two or more felony convictions that occur after the effective date of the bill to apply for probation with certain exceptions. A defendant may not apply for probation if the current or a prior conviction is for one of the following offenses:

Appropriations:

The act allows approximately 90 offenders each year to be sentenced to probation instead of the DOC. As a result, the DOC's operating costs will be reduced according to a prorated formula that reflects the percentage of total offenders housed in state facilities and in private prisons. The expenditures of the Judicial Branch will increase due to a need for more probation officers. For FY 2010-11, the Judicial Branch will require a General Fund appropriation of \$308,628 and 5.2 FTE. The DOC will require a negative General Fund appropriation of \$2,629,069, plus other five-year savings.

- first or second degree murder;
- manslaughter;
- first or second degree assault;
- first or second degree kidnapping;
- a sex offense;
- first degree arson;
- first or second degree burglary;
- robbery or aggravated robbery;
- theft from the person of another;
- any felony offense committed against a child; or
- criminal attempt or conspiracy to commit any of the offenses listed above.

Currently, the sentencing court may waive the prohibition and grant probation on a case-by-case basis upon the recommendation of the district attorney. The act does not change that provision.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1352**

Short Title: **Controlled Substance Crime Changes**

Sponsors: *Rep. Waller*
Sens. Steadman and Mitchell

Status: Signed into Law

The act makes a number of changes to offenses related to controlled substances. In particular, it:

Appropriations:

The act results in a net expenditure impact of zero due to multiple savings, costs, and required appropriations across several departments. General Fund savings of \$1,468,196 and 0.3 FTE will be realized in FY 2010-11, and \$6,156,118 and 0.3 FTE in FY 2011-12. However, the act requires that these savings be deposited in the Drug Offender Surcharge Fund. Beginning January 15, 2011, the savings are to be appropriated from the Drug Offender Surcharge Fund to the Drug Offender Treatment Fund, based on an analysis by the DCJ. The fiscal note presumes that these future appropriations will occur through the annual budget process.

- lowers the penalty for the unlawful use of a controlled substance from various levels, depending on the circumstances, to a class 2 misdemeanor, regardless of the circumstances;
- separates the crime of possession of a controlled substance (other than marijuana) from the crime of manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;
- adds the sale of a controlled substance to a minor (under the age of 18) to the definition of unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance. Sale of a controlled substance to a minor is a class 3 felony and carries a mandatory prison sentence;
- lowers the penalties for the crimes of unlawful possession of a controlled substance and manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute;
- substantially changes offenses related to marijuana with regard to the amount required to constitute a crime and lowers associated penalties;
- requires the court, in a case where an individual who is 18 or older is convicted of transferring or dispensing any amount of marijuana to a person under the age of 15, to sentence the defendant to a mandatory period of incarceration;
- increases the amount of a schedule I or II controlled substance necessary for a defendant to be designated as a special offender for sentencing purposes;
- clarifies the conditions under which possession of a firearm in the commission of a drug offense designates a defendant as a special offender;
- lowers the penalty for fraud and deceit related to a controlled substance to a class 6 felony;
- provides specific direction about the allocation of the savings attributable to the act; and
- requires the Division of Criminal Justice (DCJ) in the Department of Public Safety to annually analyze the amount of fiscal savings generated by the act and report such savings to the Joint Budget Committee.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1360**

Short Title: **Parole Placement for Technical Violation**

Sponsors: *Rep. Pace*
Sen. Steadman

Status: Signed into Law

The act allows certain parolees to be placed in a community return-to-custody facility (CRCF) rather than a state correctional facility, including those who:

Appropriations:

The act reduces net General Fund expenditures by \$240,755 due to multiple savings, costs, and required appropriations. The DOC will realize a savings of approximately \$4.7 million in FY 2010-11 and FY 2011-12. The savings are due to the changes that allow certain parole violators to be sentenced to a CRCF instead of state facilities. However, some costs are also associated with new staff resources that are required in the Division of Adult Parole. The Division of Criminal Justice in the Department of Public Safety will have costs associated with new data collection and analysis to analyze and report the fiscal savings generated. Additionally, new community corrections residential treatment beds are required to meet the needs of parole violators that are determined to be in need of and amenable to treatment. The act includes appropriations totaling \$4.5 million and 6.9 FTE for FY 2010-11 to the DOC and the Department of Public Safety.

- commit a technical violation that does not involve the commission of a crime;
- have no active felony warrants, felony detainers, or pending felony criminal charges; and
- are on parole for a class 4 nonviolent felony (except menacing, stalking, any unlawful sexual behavior, or a crime against an at-risk adult or at-risk juvenile).

A parolee who commits a technical parole violation that does not involve the commission of a crime and was not on parole for a crime of violence may have his or her parole revoked for a period of no more than 90 days if he or she is assessed as below high risk. If he or she is assessed as high risk or greater, he or she may be revoked for a period up to 180 days.

If the parole board determines that the parolee is in need of and amenable to treatment, the board is required to consider placement in:

- a residential treatment program under contract with the Department of Public Safety for the treatment of substance abuse, mental illness, or co-occurring disorders that may include an intensive residential treatment program, therapeutic community, or mental health program; or
- an outpatient program for the treatment of substance abuse, mental illness, or co-occurring disorders.

A parolee may be placed in a residential treatment program only with the approval of the program and the corresponding community corrections board. The level of treatment ordered by the parole board must be consistent with the treatment need level of the parolee based on an assessment instrument approved for use by the Division of Behavioral Health in the Department of Human Services. If the parolee does not successfully complete treatment, the board may consider additional treatment at the same or a higher level.

Finally, the act clarifies the duties of a community parole officer and directs the Division of Adult Parole in the DOC to provide the House and Senate Judiciary committees with a status report regarding the effect of the bill.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)			
Bill Number:	House Bill 10-1373	Short Title:	Sentencing Changes for Escape Crimes
Sponsors:	<i>Rep. T. Carroll Sen. Hudak</i>	Status:	Signed into Law
<p>Under current law, if an offender knowingly commits an escape crime while in custody or confinement following a felony conviction, the court is required to impose a sentence for the escape crime that runs consecutively with any other sentences being served by the offender. The act addresses individuals who escape, attempt to escape, or aid the escape of another while serving a direct sentence to community corrections or after being placed in an intensive supervision parole program. The mandatory sentence for the escape crime may run either consecutively or concurrently with any other sentence being served by the offender, at the discretion of the court.</p>	<p><i>Appropriations:</i></p> <p>The act has no fiscal impact in FY 2010-11 and FY 2011-12, but there is a savings beginning in FY 2013-14. Judges are provided with discretion to sentence certain offenders either consecutively or concurrently. Departmental data shows that such discretion is already exercised in a large number of escape cases. Not all absconders are returned to prison with new escape charges. Among those who are returned to prison, about half currently receive a consecutive sentence.</p> <p>The fiscal note assumes that 20 parole absconders each year will be returned to prison with a concurrent sentence that will be approximately 4 months shorter than a consecutive sentence for the same offender. The average length of stay for a consecutive sentence is 40.3 months. For a concurrent sentence, it is 36.3 months. Additionally, 10 new court commitments, representing escapes from community corrections programs, are expected to be sentenced to a concurrent prison term that is 12 months shorter than a consecutive sentence for the same offender (28.3 months versus 40.3 months). These shorter sentences will reduce prison operating costs beginning in FY 2013-14.</p>		

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1374**

Short Title: **Parole Changes Evidence-based Practices**

Sponsors: *Rep. Ferrandino*
Sen. Penry

Status: Signed into Law

The act directs the Sex Offender Management Board (in consultation with the DOC, the Judicial Branch, the Division of Criminal Justice (DCJ) in the Department of Public Safety, and the State Board of Parole) to develop specific sex offender release guidelines for use by the State Board of Parole in determining when to release a sex offender on parole. The DCJ and the parole board are directed to develop an administrative release guideline for use by the board in evaluating all applications for parole. The DOC and the parole board are directed to develop administrative revocation guidelines for use by the board in making decisions about parole revocation. Training will be provided on the use of the administrative release and administrative revocation guidelines.

Appropriations:

For FY 2010-11, the DOC requires an appropriation that reduces the General Fund by \$194,281, plus other five-year savings. In addition, the DOC requires a General Fund appropriation of 7.9 FTE. The Department of Public Safety requires a General Fund appropriation of \$80,154 and 0.7 FTE.

The act also repeals the statutory provision that requires a parole officer to arrest a parolee if he or she does not have lawful permission to be in a particular place (e.g., a county other than the one to which the individual was paroled). Up to 12 days of earned time each month may be deducted from an offender's sentence provided he or she meets certain requirements.

The current parole guideline statute is repealed and reenacted with changes. A statement of legislative intent is added. The DCJ is required to develop a risk assessment scale for use by the parole board that includes criteria shown to be good predictors of the risk of recidivism. The DCJ, the DOC, and the parole board are required to develop parole board action forms that provide the rationale for decisions made by the board. The parole board is required to use the risk assessment scale and the administrative guidelines, and to consider a new set of factors when making decision about parole releases. The board is also required to use the administrative revocation guidelines and consider a new set of factors when making decisions about parole revocations.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **House Bill 10-1413**

Short Title: **Limitation on Juvenile Direct File**

Sponsors: *Reps. Levy and May*
Sens. Newell and Lundberg

Status: Signed into Law

Colorado law allows a district attorney to file criminal charges against a juvenile as young as 14 in district court, a process known as "direct filing" of charges. This act repeals and reenacts the direct file statute with changes. It raises the minimum age to 16, except in cases of:

- first degree murder;
- second degree murder; or
- a sex offense combined with one of the following:
 - the alleged crime is a crime of violence;
 - the juvenile used or threatened the use of a deadly weapon during the commission of the crime;
 - the juvenile has, within the previous two years, been adjudicated as a juvenile delinquent for committing a class 3 felony;
 - the juvenile has previously had charges direct filed or transferred, unless he or she was found not guilty of such charges; or
 - the juvenile is determined to be a habitual juvenile offender.

A district attorney who intends to direct file charges against a juvenile must provide notice of such intent with the juvenile court at least 14 days prior to doing so. At the discretion of the district attorney, the 14-day notice requirement does not apply to cases of first degree murder, second degree murder, or sex offenses. The district attorney is:

- required to consider specific criteria in determining whether to direct file;
- permitted to extend the 14-day period for consideration, at his or her discretion;
- encouraged to meet with the defense counsel to discuss information relevant to the factors being considered; and
- required to provide written notice about which factors led to such a decision.

Current law prohibits the court from sentencing a juvenile convicted of a class 2 felony in district court to the Youthful Offender System (YOS) in the Department of Corrections (DOC). The act allows judges the discretion to sentence juveniles who were convicted of class 2 felonies (excluding sex offenses) to the YOS except in the case of a second or subsequent sentence to the DOC or the YOS.

Appropriations:

The act requires a net General Fund expenditure of \$240,755 in FY 2010-11 and \$508,684 in FY 2011-12. These costs are conditional on the passage and enactment of House Bill 10-1360, which was signed by the Governor on May 25, 2010. The DOC requires a General Fund reduction of \$131,125 in FY 2010-11 and \$235,077 in FY 2011-12, plus other five-year savings that will result from fewer juveniles being sentenced to DOC facilities following a direct file. The Department of Human Services requires General Fund expenditures of \$371,880 in FY 2010-11 and \$743,761 in FY 2011-12 as a result of new commitments to the Division of Youth Corrections each year that would otherwise be sentenced to the DOC.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)	
<p>Bill Number: Senate Bill 10-128</p> <p>Sponsors: <i>Sen. Hudak</i> <i>Rep. Rice</i></p> <p>The bill moves the offense of invasion of privacy for sexual gratification from the unlawful sexual contact statute to its own statute. The penalty for invasion of privacy for sexual gratification is raised from a class 1 misdemeanor to a class 6 felony when it is the second or subsequent offense or the person observed or photographed is under the age of 15. The definition of a "photograph" for the purpose of invasion of privacy for sexual gratification and criminal invasion of privacy is expanded to include a live feed.</p> <p>The penalty for the offense of eavesdropping is lowered from a class 6 felony to a class 1 misdemeanor. The sections of the bill pertaining to invasion of privacy for sexual gratification do not take effect until July 1, 2012, and the remaining portions of the bill take effect July 1, 2010.</p>	<p>Short Title: Invasion of Privacy</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p>Raising the penalty level for invasion of privacy for sexual gratification to a class 6 felony in some cases and adding a live feed as a means of committing the offense are expected to result in one new offender being admitted to the DOC every five years. Beginning in FY 2012-13, the DOC will require an appropriation of \$83,861 from the Corrections Expansion Reserve Fund, plus other five-year costs.</p>
<p>Bill Number: Senate Bill 10-130</p> <p>Sponsors: <i>Sen. Kester</i> <i>Rep. McCann</i></p> <p>The act clarifies that the executive director of the DOC, and not the director of the Division of Adult Parole in the DOC, supervises and controls the state's correctional facilities. Additionally, the DOC, and not the Division of Parole in the former Department of Institutions, supervises and controls all honor camps, work release programs, and other adult correctional programs. The Division of Parole in the Department of Institutions is abolished.</p>	<p>Short Title: Alignment of Powers of the Department of Corrections</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p>The act will not functionally change the operations of any state department or agency and is assessed as having no fiscal impact.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **Senate Bill 10-140**

Short Title: **Human Trafficking**

Sponsors: *Sen. Mitchell*
Rep. McCann

Status: Signed into Law

The act repeals and relocates, with amendments, statutory provisions related to trafficking in adults, trafficking in children, and coercion of involuntary servitude. All three offenses are added to the definition of "racketeering activity" under the Colorado Organized Crime Control Act.

Appropriations:

Only three offenders have been sentenced to the DOC since 1977 for the offense of trafficking in children. The DOC has never had an admission for crimes of trafficking in adults and coercion of involuntary servitude. Between FY 2008-09 and FY 2009-10, only one case has been filed in which any of the three crimes has been charged. Due to the low number of cases involving these three offenses, it is expected that the costs of any new cases will be absorbed using existing resources. However, in the event that significantly more cases are filed as a result of the act, the DOC, the Judicial Department, the Office of the State Public Defender, and the Office of the Alternate Defense Counsel could see increased expenditures, which would be addressed during the annual budget process.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)

Bill Number: **Senate Bill 10-159**

Short Title: **Defendant Statement Community Corrections**

Sponsors: *Sen. Foster*
Rep. Miklosi

Status: Signed into Law

Current law permits a victim to submit a written victim impact statement to a community corrections board that is considering an offender's referral to a community corrections facility. Victims are also allowed to make a separate oral statement to the board. The act addresses statements from the offender. Community corrections boards are required to allow offenders, who are under consideration for transitional placement into a community corrections facility, to submit a written statement concerning the offender's transition plan, community support, and the appropriateness of placement in a community corrections program. A board may also choose to allow an offender to designate a person to submit a written statement or give an oral statement on the offender's behalf at a hearing concerning the placement of the offender.

If an offender chooses to submit a written statement, he or she must do so within the timeframe and procedures established by the DOC. The DOC will then include such a statement with the offender's referral packet to the relevant community corrections board. The DOC is not required to provide notice of a community corrections board hearing to anyone except a registered victim.

Community corrections boards are required to develop written policies and procedures that will be made available to the public concerning the parameters for written and oral statements by victims, as well as the permissibility and parameters for a written or oral statement by a person designated by an offender. Neither the community corrections boards nor the DOC is required to provide transportation or make arrangements for the appearance of an offender (or person designated by the offender to speak on his or behalf) at a community corrections hearing.

Appropriations:

The act is assessed as having no fiscal impact. The only new task that will be required of the DOC is to include an offender's statement (for those offenders who choose to make statements) with the offender's community corrections referral packet. The fiscal note assumes that developing a reasonable timeframe for the submission of such statements and including one additional document with the packet is something that can be accomplished using existing resources.

Further, the act provides the community corrections boards with the discretion to consider an offender's statement or one given on the offender's behalf. It requires the boards to develop and publicize policies and procedures for such statements. It is expected that developing such policies and procedures will not cause an undue burden on community corrections boards and can be accomplished using existing resources.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Signed by the Governor (Cont.)	
<p>Bill Number: Senate Bill 10-193</p> <p>Sponsors: <i>Sen. Hudak</i> <i>Rep. Levy</i></p> <p>The act prohibits the DOC, private contract prisons, county jails, and the Department of Human Services from using restraints on pregnant inmates during labor and delivery. It also specifies that the least restrictive restraints necessary should be used on female inmates at all other times throughout pregnancy.</p> <p>Restraints may be used during labor and delivery if they are necessary for a safe childbirth, the inmate poses serious risk of harm to herself or the medical staff, or the inmate poses a substantial risk for escape. However, leg shackles and waist restraints are always prohibited during labor and delivery. If restraints are used, the facility is to maintain a written record of the restraints used, why they were used, and for how long.</p> <p>When the inmate returns to custody after giving birth, she is also entitled to have a medical staff person present to ensure that any strip search is conducted in a manner that does not increase the risk of infection or cause pain.</p>	<p>Short Title: Restraints Used on Pregnant Inmates</p> <p>Status: Signed into Law</p> <p><i>Appropriations:</i></p> <p>The act is assessed has having no fiscal impact. It only prohibits the use of restraints on female inmates during labor and delivery. At all other times, inmates are to be restrained using the least restrictive restraints necessary. This conforms with current policies for restraining offenders and will not require additional staff to ensure public safety.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Postponed Indefinitely	
<p>Bill Number: House Bill 10-1184</p> <p>Sponsors: <i>Rep. C. Gardner</i> <i>Sen. Lundberg</i></p> <p>This bill would have created a class 6 felony offense for individuals convicted of a third or subsequent DUI or DUI per se. It required the court to order the offender to complete an alcohol treatment program at his or her own expense and attend at least one meeting of an advocacy group for victims and family members of victims of drunk drivers.</p>	<p>Short Title: Felony for Multiple DUI Offenders</p> <p>Status: Postponed Indefinitely</p> <p><i>Appropriations:</i></p> <p>For FY 2010-11, the DOC would have required an appropriation of \$22,223,940 from the Corrections Expansion Reserve Fund, plus other five-year costs. In addition, the bill would have required following General Fund appropriations:</p> <ul style="list-style-type: none"> • Judicial Department, \$876,472 and 13.4 FTE; • Office of the State Public Defender, \$184,859 and 3.8 FTE; • Office of the Alternate Defense Counsel, \$5,690; and • Department of Revenue, \$12,867 and 0.2 FTE
<p>Bill Number: House Bill 10-1219</p> <p>Sponsors: <i>Rep. Vaad</i> <i>Sen. Penry</i></p> <p>The bill would have authorized the DOC to sell a correctional facility that totals 956 beds. The DOC would have been required to comply with certain requirements when executing the sale, such as having two independent appraisals conducted on the property. The bill also removed the requirement that the DOC may only place inmates who are classified as medium custody and below in a private contract prison.</p>	<p>Short Title: Authorization to Sell DOC Facilities</p> <p>Status: Postponed Indefinitely</p> <p><i>Appropriations:</i></p> <p>The bill would have authorized the DOC to place any inmate in a private contract prison. Current law limits the inmates in private prisons to medium custody and below. The DOC would have been authorized, but not required, to place high security offenders in a private prison; therefore, any costs associated with the bill were conditional. The fiscal note assumed that the DOC would have continued to place inmates in the appropriate facility to ensure safety for the inmates, staff, and the public. If, in the future, the DOC was required to place more high security offenders in private prisons, it could increase costs for private prison monitoring to ensure the safety of inmates and staff. As it was not known when this might occur, these costs were not quantified.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Postponed Indefinitely (Cont.)

Bill Number: **House Bill 10-1261**

Short Title: **Unborn Victims of Violence Act**

Sponsors: *Reps. Bradford and Summers*
None

Status: Postponed Indefinitely

The bill would have made killing an unborn child a class 1 felony, if the fetus has surpassed 16 weeks in utero, and one of the following circumstances occurred:

Appropriations:

For FY 2010-11, the following departments would have required an appropriation:

- an individual intends to cause the death or harm of another person and causes the death of a fetus;
- an individual knows that his or her actions may cause the harm or death of another person and causes the death of a fetus; or
- an individual attempts or commits a felony and causes the death of a fetus.

- Office of the State Public Defender, \$14,659 General Fund and 0.3 FTE; and
- Department of Corrections, \$91,370 from the Corrections Expansion Reserve Fund.

The bill also created the felony 3 crime of voluntary manslaughter of an unborn child, if the fetus has surpassed 16 weeks in utero, and one of the following circumstances occurred:

- an individual intends to cause the death of another person during a heat of passion and causes the death of a fetus;
- an individual commits a misdemeanor with such force that the death or serious bodily harm of another could be foreseen and this causes the death of a fetus; or
- an individual causes the death of a fetus because of threats or coercion.

The bill specified that the law was not applicable to the death of a fetus during medical treatment or in an act of self-defense.

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Postponed Indefinitely (Cont.)	
<p>Bill Number: House Bill 10-1286</p> <p>Sponsors: <i>Rep. McNulty</i> <i>Sen. Scheffel</i></p> <p>Effective July 1, 2011, this bill would have transferred the Department of Corrections and the Division of Youth Corrections in the Department of Human Services by a type 2 transfer to the Department of Public Safety.</p>	<p>Short Title: Corrections Transfers to the Colorado Department of Public Safety</p> <p>Status: Postponed Indefinitely</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">The fiscal note assumed that consolidating agencies as required by the bill could have reduced state expenditures by an estimated \$669,606 and 8.4 FTE in FY 2011-12.</p>
<p>Bill Number: House Bill 10-1294</p> <p>Sponsors: <i>Rep. Looper</i> <i>Sen. K. King</i></p> <p>Concerning prisoners from Guantanamo Bay, the bill would have required the Attorney General to oppose their placement in a federal or state correctional facility located in Colorado, or their relocation to the state for purposes of trying them in a federal court. The state would have been prohibited from providing resources or selling or leasing space in a state correctional facility to the federal Bureau of Prisons if a prisoner from Guantanamo was placed in Colorado.</p>	<p>Short Title: No International Terrorists in Colorado Federal Prisons</p> <p>Status: Postponed Indefinitely</p> <p><i>Appropriations:</i></p> <p style="padding-left: 40px;">This bill did not require an appropriations clause. It is not possible to determine if or when the federal government might place a prisoner in Colorado; the fiscal note assumed that the Department of Law would request the required resources if and when it became necessary.</p>

Summary of Bills Affecting the Department of Corrections (DOC), 2010 Session

Postponed Indefinitely (Cont.)	
<p>Bill Number: House Bill 10-1421</p> <p>Sponsors: <i>Reps. May and Wessmann</i> <i>Sens. King and Tochtrop</i></p> <p>The bill would have required the DOC to reduce the department's bed capacity by at least 300 beds or create comparable savings by November 1, 2010. The DOC could have achieved this savings by closing a facility, reducing the number of private prison beds, or through any other mechanism that would generate sufficient savings. If the DOC was not able to meet the November 1, 2010, deadline, the DOC could have requested a 90-day extension from the Capital Development Committee. If the DOC determined that generating the savings would create an implementation issue, the DOC could have requested that the Legislative Council suspend this requirement.</p> <p>The DOC was to direct 20 percent of the savings realized in FY 2010-11 to the community re-entry subprogram in the DOC community services program and 30 percent to vocational, academic, and treatment programs for inmates and to improve staffing ratios at state-operated correctional facilities.</p>	<p>Short Title: Decommission of One DOC Prison</p> <p>Status: Deemed Lost</p> <p><i>Appropriations:</i></p> <p>The bill would have reduced expenditures in the DOC in FY 2010-11 and FY 2011-12; however, the amount of this reduction would have depended upon how the DOC chose to generate the savings. The DOC has 16 facilities that would have been eligible for closure under the bill, if the DOC chose to close a facility as a way of generating the necessary savings.</p>
<p>Bill Number: Senate Bill 10-179</p> <p>Sponsors: <i>Sen. Steadman</i> <i>Reps. Weissmann and Casso</i></p> <p>The bill would have allowed certain persons convicted of a felony who have completed their term of imprisonment, as defined by the bill, to register to vote. Specifically, it would have expanded voting eligibility for persons convicted of a felony who are:</p> <ul style="list-style-type: none"> • serving a sentence of parole; • serving a direct sentence in a community corrections program; • placed in a community corrections program under a deferred judgement; and • sentenced to federal supervised release. <p>The bill also would have placed requirements on jail administrators, sheriffs, youth corrections facilities, parole officers, probation officers, community correction programs, and others to inform persons of their voting rights and to make voting material and information available. Voting material includes registration forms, mail-in ballot applications, copies of the ballot information booklet (Blue Book), and other election-related mailings.</p>	<p>Short Title: Voting Rights of Persons in the Criminal Justice System</p> <p>Status: Postponed Indefinitely</p> <p><i>Appropriations:</i></p> <p>The bill would have increased total costs to the state by \$15,250 in FY 2010-11 and \$1,650 in each even-numbered general election year thereafter. The costs were related to printing voter registration forms, producing and mailing additional Blue Books, and informing individuals on probation, parole, or community corrections about their rights.</p>