

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6019
BILL NUMBER: SB 6

DATE PREPARED: Oct 19, 2000
BILL AMENDED:

SUBJECT: Construction practices.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill changes the criminal mental state needed to commit the crime of home improvement fraud from "knowingly" to the lesser degree of "recklessly". The bill adds reckless failure to complete promised home improvements within 90 days after materials are delivered to the work site and reckless failure to take reasonable steps to protect exposed parts of a home improvement construction site from weather related damage to other crimes defined as home improvement fraud. This bill also simplifies the penalty structure applicable to the offense of home improvement fraud, and makes certain acts of home improvement fraud a Class A misdemeanor instead of a Class B misdemeanor. It also moves the offense of construction deception from Title 32 of the Indiana Code to Title 35 of the Indiana Code.

Effective Date: July 1, 2001.

Explanation of State Expenditures: This bill adds a new penalty, a Class D felony, applicable to certain offenses of home improvement fraud. This bill also changes the penalty for certain acts of home improvement fraud to a Class A misdemeanor instead of a Class B misdemeanor. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures ranged from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten and a half months.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered

would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000 while the maximum fine for a Class A misdemeanor is \$5,000. Court fees of \$120 would remain unchanged.

Explanation of Local Expenditures: Costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days while the maximum term for a Class A misdemeanor is up to one year. The average daily cost of housing a prisoner is an approximately \$44.

Costs to local governments could increase because the maximum term of imprisonment for a Class B misdemeanor is up to 180 days while the maximum term for a Class A misdemeanor is up to one year.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

Court fees of \$120 would remain unchanged.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.