

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6461

BILL NUMBER: HB 1044

NOTE PREPARED: Feb 2, 2004

BILL AMENDED:

SUBJECT: Trafficking Tobacco Products with an Inmate.

FIRST AUTHOR: Rep. Smith V

FIRST SPONSOR:

BILL STATUS: As Passed House

FUNDS AFFECTED: GENERAL
 DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes trafficking with an inmate a Class D felony if the trafficker is an employee of the Department of Correction or a penal facility and the trafficked item is a tobacco product. (The introduced version of this bill was prepared by the Interim Study Committee on Juvenile Law and Corrections Issues.)

Effective Date: July 1, 2004.

Explanation of State Expenditures: Under current law delivering or receiving an article from an inmate or child of a facility is a Class A misdemeanor or a Class C felony if the article is a controlled substance or a deadly weapon. The bill would add a Class D felony if the person trafficking is an employee of the Department of Correction (DOC) or a penal facility.

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 \$26,825 in FY 2002. (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 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.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

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. (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.

State Agencies Affected: Department of Correction.

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

Information Sources: Indiana Sheriffs Association, Department of Correction.

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