

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6737

BILL NUMBER: HB 1153

NOTE PREPARED: Dec 22, 2003

BILL AMENDED:

SUBJECT: Inmate Complaints or Petitions and Visitation.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It allows the Department of Correction to restrict a person less than 18 years of age from visiting an offender convicted of a sex offense if the victim was less than 18 years of age.
- B. It requires a court to screen an offender's complaints and petitions and dismiss a claim that is frivolous, seeks monetary relief from a defendant who is immune from such relief, or is not a claim upon which relief may be granted.
- C. It prohibits an offender who has had three claims dismissed after court screening from filing an action unless a court determines that the offender is in immediate danger of serious bodily injury.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Provision A:* Department of Correction (DOC) custody staff currently restrict the visitations between child sex offenders and their victims through internal rules. This bill would give DOC the statutory authority to enforce these restrictions.

As of December 15, 2003, the number of offenders in DOC who were housed in DOC facilities for sex offenses against children included the following.

Offenders Housed in DOC Facilities for Sex Crimes Against Children, Dec. 15, 2003	
Child molesting	1,580
Child solicitation	5
Child exploitation	3
Vicarious Sexual Gratification	<u>13</u>
Total Offenders	<u><u>1,601</u></u>

Provision B would reduce the work load of the Office of the Attorney General if the court which receives these cases reviews and dismisses these claims without requiring the AG's Office to respond. The Torts Claims Division of the Office of the Attorney General reports the following information about claims from offenders

FY	Number of Prisoner Claims			
	<u>State Paid on:</u>	<u>Still Open</u>	<u>Closed with Nothing Paid</u>	<u>Total Claims Filed</u>
2002	55	7	649	711
2003	32	46	688	766

Of the total claims paid in 2002 and 2003, 83 of the 87 paid were for damage of property belonging to a prisoner.

Provision C: For this bill to be implemented, either the Office of the Attorney General or the Department of Correction would be required to keep records on the offenders who have filed lawsuits that were dismissed as being frivolous.

Explanation of State Revenues:

Explanation of Local Expenditures: *Provision C:* Under current law, when an offender confined to a state correctional facility files a lawsuit, the court is required to review the case and require the opposing party to respond. If the state of Indiana is the defendant, then the Office of the Attorney General will be the responding party. Based on the nature of the lawsuit, the responding party can request that the court dismiss the lawsuit without any further review.

This bill would require the court to examine these claims first and then determine whether the claim would proceed. ***Since the judge will review the claim anyway, this requirement will not likely have any practical effect on court operations.***

Other than appeals against sentences imposed, when offenders file lawsuits against the state, the cases often involve small claims cases for property damage, mistreatment by staff, and petitions for credit time for education. When the defendants are individuals, the cases will often involve divorce, child support, and paternity actions and citations.

Potential Counties Affected:

Counties in which a large number of offenders are located are likely to have more litigation to review than others. There are 16 counties with adult facilities in Indiana that would be affected by this bill.

The five counties with the largest adult offender population are LaPorte, Miami, Hendricks, Putnam, and Sullivan.

County	Adult Facilities	Adult Offenders
Clark	Madison Correctional Facility	165
Hendricks	Plainfield Correctional Facility, Reception Diagnostic Center	2,145
Henry	New Castle Correctional Facility, New Castle Psych Unit	303
Jasper	Medearyville Correctional Facility	116
Jefferson	Henryville Correctional Facility	101
Johnson	Atterbury Correctional Facility /Edinburgh Correctional Facility	202
LaPorte	Maximum Control Facility; Indiana State Prison; Westville and Lakeside Correctional Facilities	4,935
Madison	Correctional Industrial Complex, Pendleton Correctional Facility	1,887
Marion	Indianapolis Men's and Women's Work Release; Indiana Women's Prison	523
Miami	Miami Correctional Facility	2,326
Noble	Chain O' Lakes Correctional Facility	105
Parke	Rockville Women's Prison	1,121
Perry	Branchville Correctional Facility	1,091
Putnam	Putnamville Correctional Facility	2,257
Saint Joseph	South Bend Work Release Center	53
Sullivan	Wabash Valley	<u>2,082</u>
Counties	16	<u>19,412</u>

There are also eight counties that have juvenile correctional facilities located in their county.

County	Juvenile Facilities	Number of Juveniles
Allen	Ft. Wayne Juvenile and Northeast Juvenile Correctional Facilities	113
Cass	Logansport and North Central Juvenile Correctional Facilities	213
Hendricks	Plainfield Juvenile Correctional Facility	325
LaPorte	Camp Summit	36
Madison	Pendleton Juvenile Correctional Facility	303
Marion	Indianapolis Juvenile Correctional Facility	198
Monroe	Bloomington Juvenile Correctional Facility	36
Saint Joseph	South Bend Juvenile Correctional Facility	<u>71</u>
Counties	8	1,295

Finally, DOC offenders are also in the jails in 66 other counties that have contracts with DOC to house these offenders. The following counties have 25 or more DOC offenders in their jails under contract with the Department of Correction as of November 17, 2003.

County Jail	Males	Females	Total
Tippecanoe	112	5	117
Lagrange	70	1	71
Noble	71	0	71
St Joseph	66	5	71
Shelby	49	0	49
Warrick	47	1	48
Putnam	44	2	46
Jackson	41	2	43
Lawrence	41	2	43
Porter	40	0	40
Jennings	38	1	39
Kosciusko	33	5	38
Wells	37	0	37
Pike	36	0	36
Vermillion	35	0	35
Delaware	28	4	32
Blackford	29	0	29
Cass	28	0	28
Fayette	27	0	27
Monroe	21	5	26
Henry	25	0	25
Wayne	19	6	25

Explanation of Local Revenues:

State Agencies Affected: Department of Correction, Office of the Attorney General.

Local Agencies Affected: Sheriffs in counties with offenders from the Department of Correction.

Information Sources: Department of Correction.

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