

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6928**

**BILL NUMBER:** SB 265

**NOTE PREPARED:** Dec 29, 2005

**BILL AMENDED:**

**SUBJECT:** Domestic Violence.

**FIRST AUTHOR:** Sen. Lubbers

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Domestic Violence:* The bill makes domestic battery a Class D felony if it is knowingly committed in the presence of a child less than 16 years of age.

*Evidence Rules:* It permits a court to admit evidence that a defendant has a previous conviction for domestic violence if the evidence is otherwise relevant, and permits a court to admit a witness's out-of-court statement that is consistent with the witness's trial testimony if the witness's credibility has been challenged and certain other conditions are met.

*Strangulation:* It also makes strangulation a Class D felony.

**Effective Date:** July 1, 2006.

**Explanation of State Expenditures:** *Domestic Violence:* State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail as the result of increasing the penalty for domestic battery from a Class A misdemeanor to a Class D felony if it is knowingly committed in the presence of a child less than 16 years of age.

*Strangulation:* There are no data available to indicate how many offenders may be convicted of strangulation a Class D felony.

*Background on Class D Felonies:* 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 \$20,977 in FY 2005. (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 estimated average cost of housing a juvenile in a state juvenile facility was \$62,292. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Domestic Violence:* More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

*Strangulation:* 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:** *Domestic Violence:* If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year.

*Strangulation:* 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:** *Strangulation:* 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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