

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6137

BILL NUMBER: SB 56

NOTE PREPARED: Nov 14, 2008

BILL AMENDED:

SUBJECT: Battery and Sexual Battery.

FIRST AUTHOR: Sen. Becker

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it battery, a Class D felony, for a person to, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touch: (1) the other person's genitals or buttocks; or (2) if the other person is a female, the other person's breast.

The bill also makes it sexual battery, a Class D felony, for a person to, with the intent to arouse or satisfy the person's sexual desires or the sexual desires of another person, touch the other person when the other person is unaware that the touching is occurring.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Summary-* The bill could increase incarceration by enhancing battery to a Class D felony for sexual touching, and by including a person being unaware that touching is occurring in the definition of sexual battery, a Class D felony. However, there are no data available to indicate how many more offenders may be convicted.

The bill also excludes battery as a Class D felony for touching from circumstances that would allow the state to seek the death penalty or life imprisonment, resulting in no fiscal impact on state or local government from this provision.

Background- 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 \$20,287 in FY 2008. (This does not include the cost of new

construction.) If offenders can be housed in existing facilities with no additional staff, the marginal 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 \$69,223. 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: 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 criminal costs 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. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into 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: The county general fund would receive 27% of the \$120 criminal costs 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 the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

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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