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FISCAL IMPACT STATEMENT

LS 6373

BILL NUMBER: SB 91

NOTE PREPARED: Dec 15, 2008

BILL AMENDED:

SUBJECT: Bias Crimes.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill has the following provisions:

Training: It requires law enforcement officers to receive training in identifying, responding to, and reporting bias crimes.

Civil Actions: It allows an individual who suffers a personal injury or property damage caused by a criminal offense to bring a civil action to recover damages, including punitive damages, if the person who committed the offense knowingly or intentionally selected the victim because of: (1) the victim's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex, or homelessness; or (2) the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim.

Aggravating Circumstance: It makes commission of a crime because of: (1) the victim's actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex, or homelessness; or (2) the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim; an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime.

The bill defines "homeless individual".

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Aggravating Circumstance:* State expenditures would increase if an

offender is incarcerated for a longer period of time. There are no data available to indicate if offenders would receive a longer sentence if the court may consider that the offender knowingly and intentionally selected the crime victim or the property because of the victim's, another person's who is affiliated or associated with the victim, or the property owner's color, creed, disability, national origin, race, religion, sexual orientation, gender identity, sex or homelessness. Ultimately, any increase in expenditures would depend on the actions of the offender and the sentencing decisions of the court.

Depending upon mitigating and aggravating circumstances, a Class A felony is punishable by a prison term ranging from 20 to 50 years; a Class B felony is punishable by a prison term ranging from 6 to 20 years; Class C felony is punishable by a prison term ranging from 2 to 8 years, and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor.

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.

Training: The Law Enforcement Training Board includes requirements in the minimum basic training program, the mandatory inservice training program, the town marshal basic training program, the police chief executive training program, and any other training program for mandatory training in identifying, responding to, and reporting bias crimes. Depending on the requirements adopted by the Board, the Indiana Law Enforcement Academy could have one-time, minimally increased costs to develop training programs. Also, if the training program lengthens the basic course, the cost of providing training could increase.

Background: The Indiana Law Enforcement Academy provides a 600-hour/15-week minimum basic training program for law enforcement officers. The Academy does not charge for the program, but the law enforcement agency compensates the trainee during training. Also, the Academy provides the town marshal training program and the chief executive training program. They develop training programs for the mandatory inservice training, but law enforcement agencies may engage other organizations to provide these programs as well.

As an example, recently enacted human trafficking training provisions required the Indiana Training Academy to restructure the minimum basic training program and use outside expertise. The human trafficking training was adapted for local-level officers from a federal government program, and the minimum basic training program was restructured to eliminate cardiopulmonary resuscitation automated external defibrillator (CPR AED) training so that the program did not exceed the 600-hour timeframe. (Trainees are still required to receive the CPR AED training outside of the minimum basic training program).

Explanation of State Revenues: *Civil Action:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. 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), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Aggravating Circumstance:* Local expenditures would increase if an offender is incarcerated for a longer period of time in a local jail. Ultimately, any increase in expenditures would depend on the sentence imposed by the court.

A Class A misdemeanor is punishable by up to one year in jail; a Class B misdemeanor is punishable by up to 180 days in jail; and a Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Training: Local law enforcement agencies are not charged by the Indiana Training Academy for minimum basic training courses. These agencies provide compensation for trainees and do not receive their services during the training period. Currently, the basic training period is 15 weeks.

Explanation of Local Revenues: *Civil Action:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil 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 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. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Department of Correction, Indiana Law Enforcement Academy.

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

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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