

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7377
BILL NUMBER: SB 236

NOTE PREPARED: Feb 23, 2009
BILL AMENDED: Feb 19, 2009

SUBJECT: Sentence Enhancement for Feticide.

FIRST AUTHOR: Sen. Merritt
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Jury Trial and Sentence Enhancement* – It provides that a person who, while committing or attempting to commit murder or felony murder, causes the death of a child in utero may be sentenced to an additional term of imprisonment of 6 to 20 years.
- B. *Enhanced Penalty for Feticide* – It increases the penalty for feticide from a Class C felony to a Class B felony.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *Jury Trial and Sentence Enhancement* – Under current law, a person can be sentenced for felony murder for knowingly or intentionally killing a fetus *that has attained viability*. (IC 35-42-1-1(4)). As proposed, this bill would allow a defendant to be sentenced for an additional term of between 6 and 20 years if the defendant has been convicted of causing the death of a fetus *in any stage of development* if the person has also been convicted of committing or attempting to commit murder under certain circumstances.

(Revised) *Enhanced Penalty for Feticide* – The following table shows the added number of years that an offender could serve for committing feticide if the penalty is increased from a Class C to a Class B felony.

Felony Class	Minimum	Advisory	Maximum
B	6 years	10 years	20 years
C	2 years	4 years	8 years

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.

Explanation of State Revenues:

Explanation of Local Expenditures: (Revised) Counties could incur additional costs if an additional jury trial is required.

Explanation of Local Revenues:

State Agencies Affected: DOC.

Local Agencies Affected: Trial Courts; Prosecuting attorneys.

Information Sources: DOC.

Fiscal Analyst: Mark Goodpaster 317-232-9852.