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FISCAL IMPACT STATEMENT

LS 6430

BILL NUMBER: HB 1100

NOTE PREPARED: Dec 11, 2009

BILL AMENDED:

SUBJECT: Inmate Possession of a Cellular Device Prohibited.

FIRST AUTHOR: Rep. Goodin

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill makes it a Class C felony for a person incarcerated in a penal facility to possess a cellular telephone or other wireless or cellular communications device.

Effective Date: July 1, 2010.

Explanation of State Expenditures: State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time. The ban would apply to people incarcerated in penal facilities, including people awaiting trial. People incarcerated in county jails who violate this section by possessing a cellular telephone or other wireless or cellular communications device would be eligible for transfer from a local correctional facility to a state facility. If a conviction under this section increases the time an offender would otherwise have served in a state correctional facility, costs will increase.

A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,194 in FY 2009. (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 \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years.

Background: Currently, possession of a cell phone in a DOC facility is a Class B write-up which may result in 15 days segregation, 15 days lost credit time, 20 hours of work detail, 30 days of restricted privileges, or

15 days room restriction. An offender in a county jail who is subsequently convicted of a felony may not transfer immediately to the DOC's custody unless the offender is or is in immediate danger. The offense may be enhanced to a Class B felony if the device is a deadly weapon.

On October 15, 2008, there were 35 offenders in state custody who had been convicted of possessing a device, equipment, chemical substance, or other material capable of causing bodily injury. Of these 35 offenders, for 7 the offense was the most serious offense (longest sentence) for which they were convicted.

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 C 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: DOC.

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

Information Sources: Indiana Sheriffs' Association; DOC.

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