

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

**LS 7214**  
**BILL NUMBER:** HB 1471

**NOTE PREPARED:** Jan 21, 2011  
**BILL AMENDED:**

**SUBJECT:** Child Abuse.

**FIRST AUTHOR:** Rep. Pelath  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Rape as a Nonsuspendible Offense* – It makes rape a nonsuspendible offense if the victim is less than 18 years of age.
- B. *Civil Commitment of Sexually Violent Predators* – It requires the Department of Correction (DOC) to make a determination in writing whether a sexually violent predator is a candidate for civil commitment, and requires DOC to request the prosecuting attorney in the county of conviction to institute civil commitment proceedings if the DOC determines that the sexually violent predator is a candidate for civil commitment. It specifies that a sexually violent predator may be civilly committed in any county.
- C. *Video Recordings of Victim Interviews in Prosecuting Sex Crimes* – It permits a court, in a prosecution for a sex crime or crime of violence in which the victim is a child, to admit as evidence under certain conditions, a video recording of an interview of the victim recorded not more than six months after the commission of the offense.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Rape as a Nonsuspendible Offense* – Nonsuspendible offenses mean that a court cannot suspend any of a convicted offender's sentence and permit the offender to be released early from prison to serve the suspended time on probation. Information on the age of victims in rape cases was not available. Under current law, Class B rape is a suspendible sentence.

LSA examined the commitments of the 27 offenders who were committed to DOC for Class B Rape during

CY 2010. Of these, 11 offenders had suspended sentences that ranged from two to nine years. No information was available on the age of the victims. If the victims in each of these cases were under 18 years of age at the time of the offense, then offenders would be delayed from leaving prison from 1 to 4.5 years. Since DOC facilities are currently at full capacity, more offenders would likely be incarcerated in county jails.

*Civil Commitment of Sexually Violent Predators* – As written, this bill would require DOC to examine and determine whether any sexually violent predator who is scheduled to be released within the next year should be a candidate for civil commitment. This would apply to all offenders who have release dates after July 1, 2011.

LSA identified 2,859 offenders who were in DOC facilities on January 4, 2011, and were sentenced for crimes that would qualify the person to be a sexually violent predator and are likely to be released rather than remaining in prison until they die.

<b>Crime</b>	<b>Number of Offenders</b>
Attempt to Commit Child Molesting	34
Attempt to Commit Criminal. Deviate Conduct	9
Attempt to Commit Rape	29
Attempt to Commit Sex Misconduct-minor	3
Child Exploitation	7
Child Molesting	1,631
Child Solicitation	10
Criminal Deviate Conduct	208
Criminal Confinement	157
Incest	26
Kidnaping	28
Rape	406
Sex Misconduct With a Minor	308
Vicarious Sex Gratification	1
Conspiracy Child Molesting	2
<b>Grand Total</b>	<b>2,859</b>

[The costs of conducting civil commitment proceedings are described in *Explanation of Local Expenditures*.]

LSA uses the earliest possible release date and the county of commitment to assess the number of offenders who might need civil commitments each year beginning in 2012. There would likely be a delay in these proceedings because the number of psychologists and psychiatrists with training in forensic science are limited.

*Costs of Hospitalizing Sexually Violent Predators* – Sexually violent offenders who are committed to FSSA facilities could be placed in any one of the five adult hospitals that the Division of Mental Health operates. These hospitals include Logansport, Richmond, Evansville, Carter, and Madison. The average annual cost for

treating persons in these facilities ranges between \$133,987 (Richmond) and \$202,987 (Madison). As of November 2010, DMH reported having 1,205 beds in the state mental hospitals. After a transition plan is completed in April 2011, there will be 812 psychiatric beds for adults in these five hospitals with an occupancy rate of 95%. If DMH increased staffing levels, more of these offenders could be accommodated in the current hospitals.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Costs of Civil Commitment Proceedings* – The civil commitment proceedings would take place in the counties where the person was convicted. The added costs for these types of cases could be significant depending on the number of expert witnesses who are available locally.

While it is not specified in the bill, under current law, counties would likely have to pay for the costs of expert witnesses who would testify for the state represented by the prosecuting attorney and the defendant.

Counties with public defense agencies which are reimbursed by the Public Defense Fund (IC 33-40-6) will not receive reimbursement for representing offenders in civil proceedings because these are not criminal cases.

LSA uses the earliest possible release date and the county of commitment to assess the number of offenders who might need civil commitments each year beginning in 2012 and ending in 2024. Because the number of psychologists and psychiatrists with backgrounds and training in forensic science are limited, some delay may occur in securing evaluations of these offenders in a timely manner.

The following table shows the year of release for offenders who are currently confined in DOC facilities and are scheduled to be released between 2012 and 2024.

Year of Release for Sexually Violent Predators Currently Confined in DOC Facilities												
2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
373	299	253	187	155	120	130	107	100	76	61	87	68

LSA examined the county of conviction for 925 offenders who have earliest possible release dates in 2012, 2013, and 2014 to estimate the impact on each county. The following table shows the range of offenders who are scheduled for release for each county for this three-year period if all of these offenders are considered to be candidates for civil commitment.

<b>Potential Number of Civil Commitments by Counties Between 2012 and 2015</b>	
<b>Possible Civil Commitment Cases between 2012 and 2014</b>	<b>Counties Affected</b>
More than 150	Marion
Between 26 and 55	Allen, Lake, St. Joseph, Vanderburgh, Elkhart
Between 16 and 25	Madison, Tippecanoe, Hamilton
Between 10 and 15	Grant, Bartholomew, Johnson, LaPorte, Delaware, Shelby, Howard, Lawrence, Monroe, Porter, Wayne, Dearborn, Vigo
Between 5 and 10	Clark, DeKalb, Jackson, Boone, Cass, Fayette, Gibson, Kosciusko, Morgan, Noble, Steuben, Clinton, Hendricks, Huntington, Montgomery, Carroll, Daviess, Greene, Knox, Marshall, Miami, Ripley, Washington, Wells, Dubois, Fountain, Harrison, Henry, Jay, Jennings, Putnam, Starke
Between 1 and 4	Decatur, Jefferson, Randolph, Union, Wabash, Warren, Warrick, Whitley, Ohio, Owen, Spencer, Vermillion, White, Adams, Clay, Crawford, Floyd, Franklin, Fulton, Jasper, Newton, Pike, Posey, Rush, Benton, Blackford, Hancock, LaGrange, Parke, Perry, Pulaski, Scott, Switzerland

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction; Family and Social Services Administration.

**Local Agencies Affected:** Prosecuting Attorneys; Trial courts

**Information Sources:** DOC Offender Information System; Susie Howard, FSSA.

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