

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6168

BILL NUMBER: SB 19

NOTE PREPARED: Oct 29, 2010

BILL AMENDED:

SUBJECT: Invasion of Privacy by Photography.

FIRST AUTHOR: Sen. Wyss

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill establishes the crime of invasion of privacy by photography, a Class A misdemeanor.

It provides that the crime is committed if a person, with the intent to: (1) gratify the person's sexual desires; (2) humiliate or embarrass the victim; or (3) publish, transmit, or disseminate the photograph; surreptitiously photographs the private area of an individual under circumstances in which a reasonable person would believe that the individual's private area would not be visible to the public.

The bill also increases the penalty to a Class D felony if the person knowingly or intentionally publishes, transmits, or otherwise disseminates the photograph.

(The introduced version of this bill was prepared by the Criminal Law and Sentencing Policy Study Committee.)

Effective Date: July 1, 2011.

Explanation of State Expenditures: There are no data available to indicate how many offenders may be convicted of an invasion of privacy by photography, a Class A misdemeanor, or of the enhanced penalty, a Class D felony for publishing or transmitting the photos to another person.

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 \$19,307 in FY 2010. (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 \$68,260 in FY 2010. 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 A misdemeanor is \$5,000, and 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 court 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: A Class A misdemeanor is punishable by up to one year in jail, or a defendant may be detained in county jail prior to a felony court hearing. The average daily cost to incarcerate a prisoner in a county jail 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 court 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. 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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