

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6041

BILL NUMBER: HB 1080

NOTE PREPARED: Mar 12, 2012

BILL AMENDED: Mar 9, 2012

SUBJECT: Sex Offenders.

FIRST AUTHOR: Rep. Frye R

FIRST SPONSOR: Sen. Eckerty

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- A. *Sexual Misconduct by a Service Provider* – It provides that if a person is: (1) a public servant or other person employed by a governmental entity or another person who provides goods or services to a person who is subject to lawful detention; and (2) convicted of engaging in sexual intercourse or deviate sexual conduct with another person who is subject to lawful detention; the person is considered to be a sex offender who must register as a sex or violent offender with the appropriate law enforcement agency.
- B. *Sexual Battery* – It makes it a sexual battery, a Class D felony, for a person to, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touch another person's genitals, pubic area, buttocks, or female breast when that person is unaware that the touching is occurring.
- C. *Defense to the Offense of Recruiting, Harboring, or Transporting a Child* – It creates a defense to the offense of recruiting, harboring, or transporting a child less than 16 years of age with the intent of inducing the child to participate in sexual conduct if: (1) the child is 14 or 15 years old and the person is less than 18 years old; or (2) the person is within four years of the child's age, the person was in a dating relationship with the child, and certain other conditions apply.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Sexual Misconduct by a Service Provider* – The additional costs from this provision should be minimal. Offenders who are sentenced for this crime are currently not required to register in the Sex Offender Registry. These offenders would now be required to register once they are released from prison. In CY 2011, four offenders were committed for sexual misconduct by a service provider.

Defense to the Offense of Recruiting, Harboring, or Transporting a Child – Two offenders were committed to DOC for this offense in CY 2011. This would likely have little effect on Department of Correction's population.

Sexual Battery – 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. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,318 annually, or \$9.09 daily, per prisoner. However, any additional expenditures are likely to be small. 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: *Sexual Battery* – If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is \$10,000. However, any additional revenues would likely be small.

Explanation of Local Expenditures: *Sexual Battery* – If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

Explanation of Local Revenues: *Sexual Battery* – If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

State Agencies Affected: Department of Correction

Local Agencies Affected: County sheriff; trial courts, local law enforcement agencies.

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

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