

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4490-01  
Bill No.: HB 1814  
Subject: Children and Minors; Crimes and Punishment; Law Enforcement Officers and Agencies  
Type: Original  
Date: February 4, 2008

**Bill Summary:** The proposal prohibits persons convicted of statutory rape or sodomy in the first degree from being eligible for probation, parole, conditional release, or suspended imposition or execution of sentence for five years if the victim is younger than 12 years of age.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$30,987)	(\$95,748)	(\$164,368)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$30,987)</b>	<b>(\$95,748)</b>	<b>(\$164,368)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 7 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Department of Corrections (DOC)** state Statutory Rape I and Statutory Sodomy I are dangerous felonies and in FY07 there were 4 probation sentences. The average sentence for the offenses in FY07 was 16 years of which 85% would have to be served before eligibility for parole. Therefore, average time served would be 14 years for 4 offenders who would now receive a prison sentence rather than probation due to passage of this proposal.

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact.

Assumptions used to determine cost and rounded to the nearest whole number include:

- \$41.21 (FY07 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.
- \$2.43 (FY07 cost) average daily probation costs with an inflation rate of 3% per each subsequent year.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY07 average of \$41.21 per inmate, per day or an annual cost of \$15,042 per inmate) or through supervision provided by the Board of Probation and Parole (FY07 average of \$2.43 per offender, per day or an annual cost of \$887 per offender).

ASSUMPTION (continued)

The following charts detail the estimated fiscal impact for the scope of the fiscal note (FYs 2009, 2010, and 2011), the estimated ten-year fiscal impact, and the assumptions used in determining these costs:

<b>Minimum Prison for Statutory Rape and Sodomy I</b>			
	<u>Cost</u>	<u>Days</u>	<u>Total</u>
Operating Expenses	41.21	365	15,042
Construction (C4 or C5 \$55,000)			0
Emergency Housing	0.00	365	0
Operating Inflation (3.0%)			1.030
Emer. Hsng. Inflation (10%)			1.100
Construction Inflation (3.0%)			1.030

	<b>End FY Population</b>	<b>Average Population</b>	<b>Emer Hsng Expense</b>	<b>Operating Expense</b>	<b>Construction Expense</b>	<b>Total Cost w/ Inflation</b>
FY 2008	0	(current year which will have no costs incurred)				
FY 2009	4	2	0	\$30,084	0	\$30,987
FY 2010	8	6	0	\$90,252	0	\$95,748
FY 2011	12	10	0	\$150,420	0	\$164,368
FY 2012	16	14	0	\$210,588	0	\$237,019
FY 2013	20	18	0	\$270,756	0	\$313,880
FY 2014	24	22	0	\$330,924	0	\$395,141
FY 2015	28	26	0	\$391,092	0	\$480,994
FY 2016	32	30	0	\$451,260	0	\$571,643
FY 2017	36	34	0	\$511,428	0	\$667,298
FY 2018	40	38	0	\$571,596	0	\$768,177
<b>Total Ten-Year Fiscal Impact:</b>						<b>\$3,725,255</b>

ASSUMPTION (continued)

In summary, supervision by the DOC through incarceration or probation would result in additional costs and although the exact fiscal impact is unknown, it is estimated that potential costs will be in excess of the indicated measurable dollar amount per year.

Officials from the **Office of Prosecution Services (OPS)** assume the proposal would not have a significant direct fiscal impact on county prosecutors or the OPS from an increase in the number of cases referred for prosecution because the provisions of this proposed legislation do not create any new criminal laws or expand existing criminal laws. OPS assumes, however, that the mandatory prison term provisions as proposed would have the effect of reducing the number of statutory sodomy and statutory rape cases disposed of by guilty plea thus requiring more trials. If so, prosecutors will likely experience an indirect fiscal impact as a result of the additional time required to prepare for and conduct trials of these matters. OPS based this assumption in part upon information from the Office of State Courts Administrator (CTS): In fiscal year 2007 there were a total of 336 criminal cases filed charging 1<sup>st</sup> degree statutory rape and 809 criminal cases filed charging 1<sup>st</sup> degree statutory sodomy. CTS further reports that of 39,852 felony cases disposed of in circuit courts in FY 2007, 709 (1.8%) were disposed of by trial. Thus the total number of criminal cases involving 1<sup>st</sup> degree statutory rape and 1<sup>st</sup> degree statutory sodomy exceed the total number of felony cases disposed of by trial in FY 2007 statewide.

Officials from the **Office of the State Public Defender (SPD)** assume increasing penalties on existing crimes, or creating new crimes, will require more SPD resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the Office of the State Public Defender (SPD) could absorb the costs of the proposed legislation within existing resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs	<u>(\$30,987)</u>	<u>(\$95,748)</u>	<u>(\$164,368)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$30,987)</u></b>	<b><u>(\$95,748)</u></b>	<b><u>(\$164,368)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

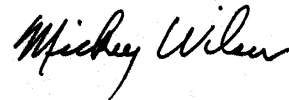
The proposal specifies that no person convicted of statutory rape in the first degree or statutory sodomy in the first degree will be eligible for parole, probation, conditional release, or suspended imposition or execution of sentence for five calendar years if the victim is younger than 12 years of age.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of the State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 4, 2008