

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 86** HLS 11RS 283  
 Bill Text Version: **ORIGINAL**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> April 29, 2011	8:15 AM	<b>Author:</b> WHITE
<b>Dept./Agy.:</b> Corrections		<b>Analyst:</b> Matthew LaBruyere
<b>Subject:</b> Sexual Abuse		

CRIME OR INCREASE GF EX See Note Page 1 of 2  
 Provides relative to sexual abuse of the physically and mentally infirm

Present law provides for the elements and criminal penalties for the crimes of sexual battery, second degree sexual battery, oral sexual battery, indecent behavior with juveniles, and molestation of a juvenile. Proposed legislation amends present law to provide that it shall also be unlawful for any person to engage in the prohibited activities defined by present law when the following occur: (1) the act is without the consent of the victim, and the victim is paraplegic, quadriplegic, or is otherwise incapable of preventing the act due to a physical disability, (2) the victim has an intelligence quotient of 70 or lower, or (3) the act is without the consent of the victim, and the victim is 65 or older. Proposed legislation further provides that lack of knowledge of the victim's mental or physical capacity is not a defense. Proposed legislation provides that the offender be imprisoned at hard labor for not less than 25 nor more than 99 years, with at least 25 years of the sentence imposed being served without benefit of parole, probation, or suspension of sentence. For the crimes of sexual battery, second degree sexual battery, oral sexual battery, and molestation, provides that upon completion of the term of **(Continued on Page 2)**

<b>EXPENDITURES</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>REVENUES</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	\$0	\$0	INCREASE	INCREASE	INCREASE	<b>\$0</b>
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b>\$0</b>
<b>Annual Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**EXPENDITURE EXPLANATION**

The proposed legislation may result in an indeterminable increase in state general fund expenditures since penalties for the crimes of sexual battery, second degree sexual battery, oral sexual battery, indecent behavior with juveniles, and molestation of a juvenile will increase in certain situations.

When the acts of sexual battery, second degree sexual battery, oral sexual battery, and molestation of the infirm are committed and the victim is over the age of 17 and paraplegic, quadriplegic, or is otherwise incapable of preventing the act due to a physical disability, has an IQ under 70, or is over the age of 65, the defendant, when convicted would be sentenced to serve at least 25 years at hard labor and be monitored electronically the remainder of his nature life once the sentence is served. The exact fiscal impact of the passage of this legislation is indeterminable, since it adds components to existing law regarding the mentally and physically infirm and it is not known how many people will be convicted of this crime. However, for each offender that is convicted of these crimes, expenditures will increase by \$20,360 (\$55.78 per day x 365 days) per year and the total cost for serving 25 years would be \$509,000 (\$20,260 per year x 25 years). For each year the offender remains alive after serving his sentence, he must remain on electronic monitoring. The cost per day will be \$5.77 for probation supervision and electronic monitoring, which results in an annual cost of \$2,106 (\$5.77 per day x 365 days).

When the act of indecent behavior with the infirm (mentally or physically) is committed, the defendant, when convicted would be sentenced to serve for not less than 2 years nor more than 25 years at hard labor. For each offender that is convicted of these crimes, expenditures will increase by \$20,360 (\$55.78 per day x 365 days) per year and the cost for serving at least 2 years would be \$40,520 (\$20,260 per year x 2 years).

**NOTE:** According to DOC, in 2010 there were 266 admissions for the following crimes: 73 for sexual battery with an average sentence of 11.2 years; 1 for second degree sexual battery with a sentence of 2.0 years; 12 for oral sexual battery with an average sentence of 18.6 years; 138 for indecent behavior with juveniles with an average sentence of 5.3 years; and 42 for molestation of a juvenile with an average sentence of 11.4 years. In 2010 there were 192 releases for the following crimes: 65 for sexual battery with an average time served of 4.2 years; 1 for second degree sexual battery **(Continued on page 2)**

**REVENUE EXPLANATION**

The proposed legislation may result in an indeterminable increase in self-generated revenue. Any offender convicted of indecent behavior with the infirm that is released to parole or probation after serving 2 years, will have to pay either \$50 per month for probation supervision or \$53 per month for parole supervision. Self-generated revenue could increase by an indeterminable amount in future fiscal years beyond the period reflected above due to the proposed legislation.

Senate Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$100,000 Annual SGF Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

*Evan Brasseaux*

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Staff Director

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**CONTINUED EXPLANATION from page one:**

**Continued Explanation of Purpose from Page one:**

imprisonment, the offender shall be electronically monitored by DOC for the remainder of his natural life. Proposed legislation amends present law to prohibit indecent behavior with the infirm which is the commission of any of the following acts by any person who is 17 or older with the intention of arousing or gratifying the sexual desires of either person: (1) Any lewd or lascivious act upon the person or in the presence of any person who is physically or mentally infirm. (2) The transmission, delivery, or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person who is physically or mentally infirm. Proposed legislation defines "mentally infirm" and "physically infirm".

**Continued Explanation of Expenditures from Page one:**

with time served of 12.4 years; 8 for oral sexual battery with an average time served of 5.3 years; 80 for indecent behavior with juveniles with an average time served of 2.7 years; and 38 for molestation of a juvenile with an average time served of 5.0 years. There are a total of 1,035 offenders in the custody of DOC for the crimes mentioned. It should be noted that the sentences imposed and time served for the crimes listed above are for informational purposes only since the crimes were committed against juveniles.

In addition, there are crimes (simple battery of the infirm and sexual battery of the infirm) in statute that provide for penalties (not more than 10 years hard labor) associated with harming the infirm. According to DOC, in 2010 there were 12 admissions for the following crimes: 10 for cruelty to the infirm with an average sentence of 4.59 years; and 2 for sexual battery of the infirm with an average sentence of 4.13 years. In 2010, there were 10 releases for cruelty to the infirm with an average time served of 1 year and no releases for sexual battery of the infirm. There are total of 18 offenders in DOC custody for cruelty to the infirm serving an average sentence of 7.41 years and 16 offenders for sexual battery of the infirm serving an average sentence of 7.07 years.

Senate                      Dual Referral Rules

13.5.1 >= \$100,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$100,000 Annual SGF Cost

6.8(G) >= \$500,000 Tax or Fee Increase  
or a Net Fee Decrease

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