



LEGISLATIVE FISCAL OFFICE
Fiscal Note

Fiscal Note On: **HB 86** HLS 11RS 283
Bill Text Version: **ENGROSSED**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

| | | |
|--------------------------------|----------|-----------------------------------|
| Date: May 18, 2011 | 11:15 AM | Author: WHITE |
| Dept./Agy.: Corrections | | |
| Subject: Sexual Abuse | | Analyst: Matthew LaBruyere |

CRIME EG 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, 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 victim has paraplegia, quadriplegia, or is otherwise incapable of preventing the act due to a physical disability, 2) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity, or 3) The victim is 65 years or older. 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 imprisonment, the offender shall be electronically monitored by DOC for the remainder of his natural life.

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

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

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, 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 has paraplegia, quadriplegia, or is otherwise incapable of preventing the act due to a physical disability, is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity, 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 reminder 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).

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; 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 with time served of 12.4 years; 8 for oral sexual battery with an average time served of 5.3 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.

(Continued on page 2)

REVENUE EXPLANATION

The proposed legislation may result in an indeterminable increase in self-generated revenue in future fiscal years beyond the period reflected above due to the proposed legislation. Any offender convicted these crimes that is released to parole or probation after serving 25 years, will have to pay the monthly fee for probation supervision or parole supervision.

| | | | |
|---|----------------------------|--|--|
| <u>Senate</u> | <u>Dual Referral Rules</u> | <u>House</u> | |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | | <input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S} | <i>Evan Brasseaux</i> |
| | | <input type="checkbox"/> 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S} | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | Evan Brasseaux Staff Director |



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CONTINUED EXPLANATION from page one: Page 2 of 2

Continued Explanation of Expenditures from Page one:

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

House

| | | |
|---|--|---|
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H} | <input type="checkbox"/> 6.8(F)1 >= \$500,000 Annual Fiscal Cost {S} | <div>Evan Brasseaux</div> <div>Evan Brasseaux</div> <div>Staff Director</div> |
| | <input type="checkbox"/> 6.8(F)2 >= \$100,000 Annual SGF Cost {H&S} | |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} | |