

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
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**FISCAL IMPACT STATEMENT**

**LS 7522**

**BILL NUMBER: HB 1358**

**DATE PREPARED: Jan 10, 1999**

**BILL AMENDED:**

**SUBJECT: Hate crimes.**

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**FUNDS AFFECTED:  GENERAL  
 DEDICATED  
 FEDERAL**

**IMPACT: State & Local**

**Summary of Legislation:** (A) This bill requires law enforcement agencies to collect and report information concerning crimes in which the victim was selected because of the victim's color, creed, disability, national origin, race, religion, sexual orientation, or sex.

(B) This bill requires the Indiana Criminal Justice Institute to submit a compiled report of this information to each law enforcement agency.

(C) This bill allows a person who suffers a pecuniary loss to bring a civil action to recover damages, including punitive damages, if the loss occurred as a result of the actions of a person who knowingly or intentionally selected the victim because of the color, creed, disability, national origin, race, religion, sexual orientation, or sex of the victim.

(D) This bill makes commission of a crime because of the color, creed, disability, national origin, race, religion, sexual orientation, or sex of the victim an aggravating circumstance that may be considered by a judge when the judge imposes a sentence for the crime. It also expands the scope of the offenses relating to civil rights to include violations directed at a person because of the person's sexual orientation.

**Effective Date:** July 1, 1999.

**Explanation of State Expenditures:** (B) This provision will require the addition of a PAT III data entry person at a staff cost of \$37,206 in FY 2000 and \$36,881 in FY 2001. Also, it is estimated, based on current Indiana Criminal Justice Institute expenditures for the sex offender registry, that printing and postage cost may approach \$10,000 annually to produce and send reports to law enforcement agencies. The funds and resources required above could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to

be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. Current vacancies within the Indiana Criminal Justice Institute are associated with federal grant programs and may not be available for use in filling this position. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions. Funding for the Indiana Criminal Justice Institute originates from the state General Fund and the federal grant funding.

(D) This provision provides for the following: (1) consecutive sentencing for multiple felonies that may include a crime of hate; and (2) life imprisonment without parole or the death penalty for the crime of murder which was motivated by bias. (Death penalty case appeals may involve expenditures by state entities, including: (1) the Office of Attorney General and (2) the State Public Defender's Office.)

In consideration of longer sentences, the average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner.

**Explanation of State Revenues:** (C) This provision also establishes civil actions based on bias crimes. The filing fee for civil actions is \$100. Of this fee, 70% or \$70 is deposited in the state General Fund if the case is filed in a trial court. If a civil case is filed in a city or town court, the state General Fund receives 50% of the \$100 filing fee.

(D) This bill creates new Class A & B misdemeanors provision for violations involving sexual orientation. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000; for a Class B misdemeanor it is \$1,000. Criminal fines are deposited in the Common School Fund. For cases filed in circuit, superior, county or municipal courts of record, 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 cases are filed in city or town courts, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** (B) This provision potentially increases the amount of time that local law enforcement agencies may spend in preparing reports to would be submitted to the Indiana Criminal Justice Institute.

(C) Added civil actions may increase the caseloads of some trial courts or city or town courts. The operating expenses of the trial courts are paid by the county general fund. The expenses of the city and town courts are paid by the general fund of the city or town in which the court is located.

(D) Local expenditures may increase if more death penalty cases are filed due to this provision. Research indicates that the trial and appeals costs for death penalty cases can be two to three times more than the current range of \$37,000 and \$90,000 spent to impose prison sentences. (Death penalty case costs are further inflated due to additional police investigation and court time, prosecution resources, or the costs of a lengthy jury trial with a sequestered jury.)

**Explanation of Local Revenues:** (C) If a civil action is filed in trial court, the county general fund receives 27% of the \$100 filing fee. The other 3% is deposited in the general fund of the cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a circuit, superior, county, or municipal court located in the county. If the action is filed in a city or town court, the county general fund receives 25% and the city or town general fund receives the remaining 25%

(D) If additional court actions occur and guilty verdicts are entered, local governments would receive revenue from the following sources: (1) 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. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

**State Agencies Affected:** Indiana Criminal Justice Institute; Department of Correction.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

**Information Sources:** Department of Correction; Indiana Sheriffs Association; Catherine O'Connor, Indiana Criminal Justice Institute.