

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

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7632**

**BILL NUMBER: HB 1522**

**DATE PREPARED:** Jan 8, 1999

**BILL AMENDED:**

**SUBJECT:** Cemetery preservation.

**FISCAL ANALYST:** Beverly Holloway

**PHONE NUMBER:** 232-9851

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill prohibits a person from recklessly, knowingly, or intentionally damaging personal property contained in a structure or located at a cemetery or a facility used for memorializing the dead.

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

**Explanation of State Expenditures:** This bill could increase the number of individuals who could be found to have committed cemetery mischief. If an individual recklessly, knowingly, or intentionally commits cemetery mischief, the person commits a Class A Misdemeanor. However, the offense is a Class D Felony if the pecuniary loss is at least \$250 but less than \$2,500 and a Class C Felony if the pecuniary loss is at least \$2,500.

A Class C Felony is punishable by a prison term ranging from 2 to 8 years depending upon mitigating and aggravating circumstances. A Class D Felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A Misdemeanor depending upon mitigating and aggravating circumstances. 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. The average length of stay in the Department of Correction facilities for all Class C Felony offenders is approximately one year and approximately seven months for all Class D Felony offenders.

This bill provides that if the cemetery mischief committed by an individual included the use of graffiti, the court **may** order the person's operator's license to be suspended or invalidated by the Bureau of Motor Vehicle. The court **may** rescind the suspension or invalidation if the individual meets certain requirements. The Bureau of Motor Vehicle suspended 129,571 operator's licences in 1997. The operator license

suspension requirements of this bill can be done within the current suspension procedures of the Bureau of Motor Vehicle. No additional funding is required.

**Explanation of State Revenues:** 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 and the maximum fine for a Class C and Class D Felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (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 the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

**Explanation of Local Expenditures:** A Class A misdemeanor is punishable by up to one year in jail. If more defendants are charged with a Class C or Class D Felony and detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is 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:** Department of Correction.

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

**Information Sources:** Nick Pasyanos, Association of Indiana Counties, (317) 684-3710. Bureau of Motor Vehicle, *Driver's License Records for 1997*. Indiana Sheriffs Association. Department of Correction.