

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

301 State House
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FISCAL IMPACT STATEMENT

LS 7982

BILL NUMBER: HB 1592

DATE PREPARED: Feb 23, 1999

BILL AMENDED: Feb 22, 1999

SUBJECT: Sexual predator sentencing.

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**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State

Summary of Legislation: (Amended) This bill allows a court to sentence a person convicted of a sexual offense to an additional fixed term that is the presumptive sentence for the underlying offense if the state proves beyond a reasonable doubt that the person has accumulated at least two unrelated convictions for sexual offenses. It specifies that the additional fixed term may not exceed ten years. It requires the court to conduct the sentencing hearing. It also provides that "sexual offense" refers to rape, criminal deviate conduct, child molesting, child exploitation, vicarious sexual gratification, child solicitation, child seduction, sexual misconduct with a minor, sexual battery, or incest.

Effective Date: July 1, 1999.

Explanation of State Expenditures: (Revised) The impact of this bill on DOC incarceration costs will depend on the number of cases where the state seeks to sentence felons as a "sexual predator" (i.e., an offenders who have prior convictions under this bill's provisions). (Perpetrators of sexual felony offenses are 98% male.) In FY 1997, 574 adult male felons were incarcerated (9% of the total 6,298 offenders incarcerated) with the offenses specified in this bill. About 59% of these were for Class B and C child molesting. The average expenditure to house an adult offender was \$20,500 in FY 97. Individual facility expenditures range from \$11,000 to \$27,000.

An estimate of the long-term impact of this bill on DOC population would be based on: (1) how often the court assigned an additional fixed term to a sexual offense conviction; and (2) the rate at which those convicted had prior convictions for sexual offenses. There are 790 sex offenders with prior DOC commitments, and at least 104 (13%) of these had prior sex offense convictions. (This figure is presumed to be low since not all prior offenses are available on the DOC information system.) An international study also indicates a 13% recidivism rate (over 4-5 years) for all sex offenders, and up to 19% for the crimes of rape and child molesting (over 80% of all sex offenses in DOC are for rape or child molesting convictions).

Potential Long-Term Population Impact: The following table predicts five and ten year impacts on the DOC offender population based on current figures of incarceration. It sets three rates of possible court usage in sentencing an additional fixed term for sexual offense cases based on a prior sexual offense . (Information regarding calculations is available from LSA upon request.)

Est. DOC Offender Increase	Sample Rates at Which Courts Decide to Set an Additional Fixed Sentence for a Prior Sexual Offense		
	75% Rate	50% Rate	25% Rate
@ Five Years	67-93 additional offenders	45-62	23-31
@ Ten Years	129-177 additional offenders	86-118	43-59

Depending on court decisions, this provision may place additional pressure on the DOC for capital construction of new facilities due to its current overcapacity. DOC will be completing construction on a facility with 1,400 new beds by the fall of 1999. Including all contracted and county jail beds, DOC adult male capacity in FY 2000 will be 16,256 with a projected population of about 18,000 beds (+11%). This includes DOC offenders currently serving time in county jails.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; prosecutors.

Information Sources: Planning Division, Department of Correction; "Predicting Relapse: A Meta-analysis of Sexual Offender Recidivism," *Journal of Consulting and Clinical Psychology*, Vol.66, No. 2, 1998.