

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

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 8148**

**BILL NUMBER: HB 1747**

**DATE PREPARED:** Jan 20, 1999

**BILL AMENDED:**

**SUBJECT:** Domestic violence.

**FISCAL ANALYST:** Beverly Holloway

**PHONE NUMBER:** 232-9851

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

**IMPACT:** State & Local

**Summary of Legislation:** (1) This bill increases the marriage certificate fee from \$8 to \$30 for Indiana residents and from \$50 to \$75 for nonresidents. It requires additional amounts that are collected as a result of the fee increases to be deposited in the Family Violence and Victim Assistance Fund.

(2) This bill provides that a person against whom a protective order has been issued is prohibited from possessing a firearm during the period that the person is under the protective order if the court finds that the person poses a credible threat to another person. It requires the court to notify the State Police Department of all protective orders that prohibit a person from possessing a firearm. This bill provides for the transfer and disposition of firearms under these circumstances.

(3) This bill enumerates duties of a law enforcement officer whenever the officer responds to an allegation of domestic violence.

(4) This bill raises the penalty for battery from a Class A Misdemeanor to a Class D Felony if the offense is witnessed or heard by a: (1) minor child or stepchild; or (2) minor child residing within the household of the victim or of the person who commits the offense. This bill allows a court to consider it an aggravating circumstance for sentencing purposes that a person committed a violent offense that was witnessed or heard by a: (1) minor child or stepchild; or (2) minor child residing in the household of the victim or of the person who commits the offense.

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

**Explanation of State Expenditures:** (2) See "Explanation of State Revenues."

(4) This bill enhances the penalty for battery from a Class A misdemeanor to a Class D felony for the conditions specified. State expenditures could increase if an offender is incarcerated in a state prison rather

than in a local jail. A Class D felony is punishable by a prison term ranging between 6 months to 3 years or reduction to Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. This bill also makes battery before a child an aggravating circumstance which may lengthen sentences for other felony convictions.

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 per offender for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily. The average length of stay in DOC facilities for all Class D felony offenders is approximately seven months.

**Explanation of State Revenues:** (1) This bill increases the marriage certificate fee from \$8 to \$30 for Indiana residents and from \$50 to \$75 for nonresidents. In 1997 there were 48,381 marriage certificates issued in Indiana. Of those, 3,794 certificates were issued to nonresidents. The additional amounts that are collected as a result of the fee increases, \$22 for resident and \$25 for nonresident, are to be deposited in the Family Violence and Victim Assistance Fund. The purpose of the Family Violence and Victim Assistance Fund is to provide funding for domestic violence prevention and treatment, child abuse prevention, and victim and witness assistance programs. The Fund is administered by the Division of Family and Children, Family and Social Services Administration.

Based upon the above assumptions, the amount deposited into the Fund from the additional fees is an estimated total of \$1,076,000 per year.

This bill also increases the civil cost fee from \$100 to \$120 for the dissolution of marriage. The increase in the fee, \$20, is to be deposited in the Family Violence and Victim Assistance Fund. The remaining \$100 is distributed as follows: 70% or \$70 is deposited in the state general fund if the case is filed in a trial court; if civil case is filed in a city or town court, the state general fund receives 55% of the \$100 filing fee.

In 1997, there were 42,385 marriage dissolutions. The amount deposited in the Fund from this fee increase is an estimated \$847,700.

**The estimated annual total to be deposited into the Family Violence and Victim Assistance Fund from the increase in fees of resident and nonresident marriage certificates and marriage dissolutions is \$1,923,700.**

(2) This bill provides that a person against whom a protective order has been issued is prohibited from possessing a firearm during the period that the person is under the protective order if the court finds that the person poses a credible threat to another person. It requires the court to notify the State Police Department of all protective orders that prohibit a person from possessing a firearm. This bill provides for the transfer and disposition of firearms under these circumstances.

The transfer and disposition of firearms could increase administrative expenses of the State Police or local law enforcement. Money collected from the sale of firearms must first be used to defray the necessary costs of administering the transfer and disposition of the firearm. Any surplus is to be deposited in the receiving law enforcement agency's Firearms Training Fund.

(4) More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class A misdemeanor is \$5,000 while the maximum fine for a

Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

**Explanation of Local Expenditures:** (2) See “Explanation of State Revenues.”

(3) This bill enumerates duties of a law enforcement officer whenever the officer responds to an allegation of domestic violence. These duties are currently performed by most law enforcement officers as a part of their existing duties. If the duties are not currently performed, they can be done without increasing the costs of a law enforcement agency.

(4) If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. The maximum term of imprisonment for a Class A misdemeanor is up to one year. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

**Explanation of Local Revenues:** (1) \$8 of the resident and \$50 of the nonresident fee are deposited in the county general fund. The depositing of this fee and amount is current practice therefore, the fiscal impact to the counties will not change.

If the marriage dissolution case is filed in trial court, the county general fund receives \$27, or 27%. The other \$3, or 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 case is filed in a city or town court, the county general fund receives 20% while the city or town general fund receives \$25.

(2) See “Explanation of State Revenues.”

(4) Court fees for both misdemeanors and felonies are \$120.

**State Agencies Affected:** Division of Family and Children, Family and Social Services Administration; Department of Correction.

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

**Information Sources:** Linda Sternnock, Data Analysis, State Department of Health, (317) 233-7536. 1997 Indiana Judicial Report, Vol. I, p. 39, 53; IC 33-19-7 (concerning civil filing fees and their distribution); Indiana Sheriffs Association.