

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

301 State House
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FISCAL IMPACT STATEMENT

LS 8148

BILL NUMBER: HB 1747

DATE PREPARED: Mar 3, 1999

BILL AMENDED: Mar 3, 1999

SUBJECT: Domestic violence.

FISCAL ANALYST: Beverly Holloway

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**FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) (1) 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.

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

(3) This bill raises the penalty for battery from a Class A misdemeanor to a Class D felony if the person who commits the offense knew that the act would be 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: (Revised) (1) See "Explanation of State Revenues."

(3) 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: (Revised) (1) 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.

(3) 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: (Revised) (1) See "Explanation of State Revenues."

(2) 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.

(3) 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: (Revised) (1) See "Explanation of State Revenues."

(3) 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: