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FISCAL IMPACT STATEMENT

LS 6247

BILL NUMBER: HB 1155

NOTE PREPARED: Feb 1, 2006

BILL AMENDED: Jan 31, 2006

SUBJECT: Child Molesting.

FIRST AUTHOR: Rep. Budak

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- A. *Registration with Sex Offender Registry* -- It requires a sex offender who is not required to register for life to register for a period of 20 years (current law requires a 10-year registration period). It provides that a person who was at least 18 years of age when the person committed child molesting must be placed on lifetime parole when the person's term of imprisonment is completed.
- B. *Monitoring Devices for Sex Offenders* -- It requires a person placed on lifetime parole to wear a GPS monitoring device if the person: (1) has a prior unrelated conviction for child molesting; or (2) is a sexually violent predator. It allows the parole board to require parolees who are sex offenders to wear a GPS monitoring device.
- C. *Conditions for Persons on Lifetime Parole* -- It prohibits a person on parole for child molesting from: (1) residing within 1,000 feet of certain facilities; or (2) owning, operating, managing, being employed by, or volunteering for certain specified activities.
- D. *Violation of Lifetime Parole* -- It makes violation of a condition of lifetime parole a felony under certain circumstances.
- E. *Out-of-State Offenders* -- It specifies that a person convicted of child molesting in another state whose parole is transferred to Indiana may be required to be placed on lifetime parole.
- F. *Changes in Credit Time* -- It permits the Department of Correction (DOC) to deprive a sex offender of credit time if the sex offender refuses to participate in a treatment program specifically offered to that sex offender by DOC.
- G. *Other Supervision* -- It provides that, if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar

agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as stringent and effective as supervision by the parole board.

- H. *Certain Visitation Rights* -- It provides that if a court grants visitation rights to a grandparent convicted of a sex crime, the visitation must be supervised by an individual who is approved by the custodial parent or guardian and the noncustodial parent.
- I. *Stalking and Stalker Registry Web Site* -- It prohibits a probationer or parolee who has been convicted of stalking from residing within 1,000 feet of the home of the victim unless the person obtains a waiver from the court or parole board. It also permits a prosecuting attorney to establish a stalker registry web site to inform the general public about the identity, location, and appearance of a stalker.
- J. It makes other changes.

Effective Date: July 1, 2006.

Explanation of State Expenditures: (Revised) The three most fiscally significant provisions of this bill are:

- The requirement that offenders who are sentenced for child molesting who have a prior conviction for child molesting and offenders who are determined by a sentencing court to be a sexually violent predator will be required to wear a global positioning system (GPS) monitoring device for their lifetime.
- The requirement that any offender who is sentenced for child molesting after June 30, 2006, and is over 18 years of age at the time of the crime will be on lifetime parole.
- Increasing the minimum time that a sex offender would be required to register as a sex offender on the Sex Offender Registry from 10 to 20 years.

Since offenders who are sentenced for these crimes will generally spend at least 2.5 years in prison before being released, the fiscal effects from this bill will not occur until after 2010 when Class C felons will begin to be released.

Little or no information is available at the state level about the number of offenders who have been determined by the courts to be sexually violent predators under IC 35-38-1-7.5. DOC estimates that less than 50 are currently either in DOC facilities or have been released and that roughly two offenders are determined to be sexually violent predators in any given year.

Predicting the future costs of providing these offenders with GPS monitoring and lifetime parole supervision is difficult due to changes in technology and organizational arrangements. The cost of GPS monitoring has decreased rapidly within the past five years, and the costs of actual staff monitoring may depend on the arrangements that the Department of Correction makes with local probation and community correction programs.

GPS Costs -- The immediate effect of this bill will be increased parole supervision costs from requiring repeat child molesters and sexually violent predators to wear a monitoring device. Since this bill only applies to crimes committed after June 30, 2006, the earliest that this bill could affect the Department of Correction would be in FY 2011 because offenders sentenced for child molesting are required to serve a minimum sentence. The following tables illustrate the potential costs associated with these requirements based on costs in 2006 for

mandatory GPS monitoring.

Potential Costs of Mandatory GPS Monitoring for Offenders with Current Sentence of Child Molesting with Prior Child Molesting Sentence in 2006 Dollars					
	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Class B Felons			10	20	26
Class C Felons	21	42	55	67	80
Added Child Molesters on Parole	21	42	65	87	106
Unit Costs of Global Position Monitoring	\$3,600	\$3,600	\$3,600	\$3,600	\$3,600
Estimated Costs of Global Position Monitoring	\$75,600	\$151,200	\$234,000	\$313,200	\$381,600

Projected Costs for Lifetime Parole -- Both the staff costs for supervising offenders on parole and offenders who return to DOC because of parole violations could increase costs to DOC. Supervisory costs can take one of two forms for DOC. DOC may increase the number of parole officers to supervise these offenders or contract with probation or community corrections agencies to provide the supervision. If parole staff is increased to supervise more offenders, more staff would likely be needed beginning in 2020 when offenders who were released from DOC in 2010 finish their current 10-year maximum period on parole that they are required to serve under current law and begin this added lifetime parole. Currently, eight district offices have 91 parole officers and 36 other employees, including substance abuse counselors and support staff. The average annual parole population as of November 2005 was 8,144. Based on these statistics, the average number of offenders per parole officer is 90.

The following represents the added costs to the Department of Correction based on the average 2006 salary of \$50,100.

Potential Costs of Additional Offenders on Parole in 2006 Dollars			
	Year Felons Sentenced in 2007 Begin Lifetime Parole		
	<u>2020</u>	<u>2022</u>	<u>2025</u>
Class A Felons*			4
Class B Felons*		88	264
Class C Felons*	163	489	815
Added Child Molesters on Parole	163	577	1,083
New Probation Officers Needed**	2	6	12
Estimated Cost Based on 2005 Expenditures	\$50,100	\$50,100	\$50,100
Added Costs of New Probation Officers	\$100,200	\$300,600	\$601,200
*Assumes that 40% of original releases in 2007 have returned to DOC.			
**Based on 90 Offenders per Parole Officer.			

Minimum Time on Sex Offender Registry -- Under current law sex offenders must register for a minimum of ten years. If offenders are required to register for 20 years instead of 10, more offenders would likely intentionally fail to register and commit a new crime for not conforming with registration requirements. Offenders who knowingly or intentionally fail to register or to complete and submit a new registration form commit a Class D felony on a first offense and a Class C felony as a second offense (IC 5-2-12-9).

In CY 2004, 23 persons in 13 counties were committed to DOC facilities as Class D felons for not registering as a sex offender as a first-time offense.

- Changes in Credit Time* -- This bill would allow DOC to deny credit time to sex offenders if they refuse to:
- register as a sex offender while in a DOC facility (used as a management tool); or
 - participate in a sex offender treatment program specifically offered to the sex offender by DOC.

DOC indicated that loss of credit time would be used as a management tool to force offenders to comply. Offenders who may lose credit time for good behavior may regain the lost credit time. Consequently, these provisions would not likely increase future facility populations. DOC also offers sex offender treatment to the offenders that staff determine would benefit from the program. Consequently, the number of sex offenders participating in the program is limited. Sex offender treatment programs are located at the following male facilities: Miami, Correctional Industrial Complex, Putnamville, and Westville. Liberty Behavioral Health (LBH) is contracted to provide those services. By contract agreement LBH is to provide services for not less than 200 offenders at any given time. Currently, 220 sex offenders are enrolled in the treatment program.

Background on Supervision of Sex Offenders -- By law, sex offenders must serve a minimum sentence in a DOC facility. IC 35-50-2-2(d) allows a court to sentence the offender for the minimum term and, upon release, place the offender on probation for not more than 10 years. If the offender is given a full sentence with no early release on probation, the offender may earn time cuts for good behavior and for earning educational degrees and vocational certificates. IC 35-50-6-1(d) requires an offender who is released early because of accrued credit time to be placed on parole for a maximum of 10 years upon release. Offenders can also be released into a community transition program operated by a probation department or community corrections program (CTP). Community transition assignments are of relatively short term compared to probation or parole assignments. Some offenders serve their entire sentences without early release because they earned no credit time.

Future parole populations are affected by three variables: the number being released by type of felony, the average age at release, and the recidivism rate of the offenders. The projections shown in prior tables took these factors into account.

	Felony Class	Annual Number Released¹	Average Years in DOC¹	Average Age at Release¹	Year of Release²	Recidivism Rate³	
All Child Molesters	A	6	7.7	43	2015	40%	
	B	147	4.6	38	2012		
	C	272	2.5	40	2010		
Repeat Child Molesters	A	N/A -- Life Sentence for Repeat Class A Child Molesters					40%
	B	10	6	40	2013		
	C	21	3.8	40	2011		
¹ Between 2000 and 2004		² Based on sentencing in 2007					
³ Based on sex offenders released in 2001 from DOC facilities. Assumes that 60% will remain on parole after three years.							

Background on GPS Monitoring -- The impact of requiring GPS monitoring would begin in FY 2011 when Class C felony child molesters would be released. There are a variety of monitoring systems that fit the requirements for monitoring in IC 35-38-2.5-3 and that would work in different geographic locations. The cost of monitoring will vary based on the type of device required. As an example of the difference in cost, the daily cost of a radio frequency device that monitors offenders in their homes is \$1.30 in Marion County, while the cost of a global positioning satellite system is \$5.00 per day for a passive system and \$10.00 for active, or 24-hour, surveillance. Continuous monitoring (not necessarily required) could increase costs for staff to allow for monitoring and response or to provide for more flexible working schedules

Explanation of State Revenues: *Violation of Lifetime Parole:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. 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, or county court, 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: (Revised) *Stalker Registry* -- The costs of establishing a stalker registry will depend on the local resources of the prosecuting attorney and other local law enforcement agencies

Stalking is defined in statute as a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity (IC 35-45-10-1). Stalking is a Class D felony and can be enhanced to either a Class C or B felony under certain circumstances. As a felony, offenders sentenced for stalking can be committed to DOC. A court can suspend a person's sentence for stalking, so an offender can be sentenced to probation or community corrections.

The number of offenders statewide who have been sentenced to probation or community corrections for stalking is not known. As of November 21, 2005, 46 offenders were in DOC facilities for the offense of stalking.

Offenders in DOC Facilities on November 21, 2005, for Stalking	
Felony Class	Offenders
Class B	6
Class C	32
Class D	8
Total Offenders	46

Extending the Minimum Period of Registering as a Sex Offender from 10 to 20 Years -- Currently, each local law enforcement agency (LLEA) has identified staff to monitor sex offender registration. Extending the amount of time that offenders must register as sex offenders will increase the responsibilities of the local law enforcement agencies. Their responsibilities include:

- forwarding a copy of a sex offender's registration form to the Criminal Justice Institute, the DOC (if the DOC has established an Automated Victim Notification System), and every local law enforcement

- agency having jurisdiction in the area where the offender is located;
- taking and publishing photographs of offenders on the Sheriffs' Sex Offender Registry web site;
- informing other local law enforcement agencies if an offender moves, starts employment, vocation, or enrollment within another LLEA's jurisdiction;
- notifying other states if an offender changes residence, place of employment, or enrollment to the other state;
- verifying offenders' addresses; and
- notifying the ICJI and the prosecuting attorney if an offender fails to return a signed registration form.

Explanation of Local Revenues: *Monitoring of Offenders* – A portion of the costs associated with these systems can be offset from user fees collected from offenders on parole.

Violation of Lifetime Parole: 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. (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: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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