

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6297

BILL NUMBER: HB 1308

NOTE PREPARED: Nov 25, 2008

BILL AMENDED:

SUBJECT: Contraband in Penal Facilities; Public Nuisances.

FIRST AUTHOR: Rep. Leonard

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Contraband in a Penal or Juvenile Facility:* The bill makes it unlawful possession of contraband in a penal facility or juvenile facility, a Class A misdemeanor, for a person to knowingly or intentionally carry contraband into a penal facility or juvenile facility with intent to personally use the contraband unless the person has been authorized to do so by the person in charge of a penal facility or juvenile facility. The bill makes the offense a Class C felony if the contraband is a controlled substance or deadly weapon.

Visiting a Common Nuisance: It specifies that a person commits visiting a common nuisance, a Class B misdemeanor, if the person knowingly or intentionally visits a building, structure, vehicle, or other place that is used by any person to unlawfully use a controlled substance one or more times.

Effective Date: July 1, 2009.

Explanation of State Expenditures: *Contraband in a Penal or Juvenile Facility:* There are no data available to indicate how many offenders may be convicted of the crime established in the bill, unlawful possession of contraband in a penal or juvenile facility, a Class A misdemeanor. The offense would be a Class C felony if the contraband is a controlled substance or a deadly weapon.

A Class C felony is punishable by a prison term ranging from 2 to 8 years, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,287 in FY 2008. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was

\$69,223. The average length of stay in Department of Correction facilities for all Class C felony offenders is approximately two years.

Explanation of State Revenues: *Contraband in a Penal or Juvenile Facility:* 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 A misdemeanor is \$5,000, and the maximum fine for a Class C felony is \$10,000. Criminal fines are deposited in the Common School Fund.

Visiting a Common Nuisance: Under the bill, the penalty for visiting a common nuisance, a Class B misdemeanor, would not change. Instead, the definition of a common nuisance would indicate that it is a place where a controlled substance was used one or more times. There are no data available to indicate if more offenders would be convicted of this Class B misdemeanor. 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 B misdemeanor is \$1,000.

Contraband in a Penal or Juvenile Facility and Visiting a Common Nuisance: If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs 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. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Contraband in a Penal or Juvenile Facility and Visiting a Common Nuisance:* A Class A misdemeanor is punishable by up to one year in jail and a Class B misdemeanor is punishable by up to 180 days in jail. Class C felony defendants may be detained in county jails prior to their court hearings. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Contraband in a Penal or Juvenile Facility and Visiting a Common Nuisance:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs 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 the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

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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