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**FISCAL IMPACT STATEMENT**

**LS 6707**  
**BILL NUMBER: SB 561**

**NOTE PREPARED:** Feb 22, 2011  
**BILL AMENDED:** Feb 21, 2011

**SUBJECT:** Corrections and Sentencing.

**FIRST AUTHOR:** Sen. Steele  
**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. *Bulk Export Program and Judicial Technology and Automation Project* – It requires the Indiana Office of Technology to annually certify that the Judicial Technology and Automation Project implements a standard bulk export program for the dissemination of all nonconfidential court case information to agencies and other recipients from the case management system operated or funded by the Division of State Court Administration.
- B. *GPS Monitoring of Sexually Violent Predators* – It provides that the State Sex and Violent Offender Administration Fund may be used to assist the Department of Correction in carrying out its duties concerning GPS monitoring of sexually violent predators and sex and violent offenders. It directs \$1, 1.2%, or 1.5% (depending on which court collects the fee) of the pretrial diversion fee and deferred prosecution fee to the State Sex and Violent Offender Administration Fund, and directs the same amount to the Public Defense Fund. It also provides that certain funds from pretrial diversion or deferral fees may only be used to fund GPS monitoring programs.
- C. *Incentive and Disincentive Program for Class D Felony Offenders* – It requires the Department of Correction to: (1) determine the average daily marginal cost of incarcerating an offender; (2) determine the average length of stay for a Class D felony offender in the department; and (3) administer an incentive and disincentive program for counties to reduce the number of Class D felony offenders committed to the department. It provides that the local rehabilitation incentive is to be made from the marginal savings realized by DOC as a result of the counties committing fewer Class D felony offenders to DOC.
- D. *Indiana Judicial Conference* – It requires the Judicial Conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. It requires the board of directors of the Judicial Conference of Indiana to adopt rules to establish standards of probation supervision provided by probation departments based on validated risk assessments of

- offenders.
- E. *Supervision of Offenders Released from DOC* – It requires the Department of Correction to: (1) supervise parolees who were sentenced by a court in Indiana for murder, a Class A felony, a sex offense, or incest; (2) assist all parolees sentenced by a court in Indiana; and (3) supervise and assist out-of-state parolees accepted under an interstate compact as required by the interstate compact. It provides that when a court imposes a sentence on a specified type of offender, the court shall suspend part of the sentence and require the offender to serve the suspended period on probation, in a community corrections program, or in a problem solving court program.
  - F. *Community Corrections Programs* – It requires local and state community corrections programs to use services, programs, and practices that reduce recidivism rates, as demonstrated by scientific research, among persons who participate in community corrections programs. It requires community corrections boards to coordinate or operate educational, mental health, drug or alcohol abuse counseling, housing, and supervision services for persons participating in community corrections programs. It provides that money received by a community corrections program or community transition program from the state may be used only to provide community corrections or community transition services for persons who have been charged with or convicted of a crime.
  - G. *User Fees* – It provides that any user fees collected: (1) by a community corrections program that is funded in whole or in part by money received from the state; and (2) from persons who have been convicted of a felony; may be used only to provide services for persons who have been charged with or convicted of a crime. It provides that if the Department of Correction establishes or contracts for the establishment of a community corrections program, the program may provide services only for persons who have been charged with or convicted of a crime. It provides that any home detention user fees collected: (1) by a community corrections program that provides supervision of home detention and is funded in whole or in part by money received from the state; and (2) from persons who have been convicted of a felony; may be used only to provide home detention services for persons who have been charged with or convicted of a crime.
  - H. *Sentence Suspension of Class D Felonies* – It removes certain Class D felonies from the list of felonies for which a court may suspend only the part of the sentence that exceeds the minimum sentence. It repeals the statute prohibiting the suspension of certain felony sentences if the person has a juvenile record. It removes certain habitual traffic violator statutes from the list of crimes that are not suspendible.
  - I. *Crimes of Theft* – It defines "defraud" for purposes of criminal law. It makes theft: (1) a Class A misdemeanor if the amount of property involved in the theft is less than \$750; (2) a Class D felony if the amount is between \$750 and \$50,000 or if the person has a prior conviction; and (3) a Class C felony if the amount of property is at least \$50,000. It removes provisions relating to receiving stolen property. The bill makes forgery a Class D felony. It repeals auto theft (same offense as theft) and terroristic deception (consolidated in other provisions). It consolidates certain duplicative provisions and makes enhancements to certain crimes more uniform.
  - J. *Criminal Code Evaluation Commission* –It requires the Criminal Code Evaluation Commission to study truth in sentencing, good time credit and earned credit time, and felony classifications during the 2011 interim. It recommends that the Criminal Law and Sentencing Policy Study Committee study development of a criminal information package.
  - K. *Drug Crimes* – It makes certain changes to drug offenses.
  - L. *Habitual Offender Charging Information* – It permits the amendment of a habitual offender charging information at any time if the defendant's rights are not harmed. It authorizes a law enforcement officer to arrest a person who has committed theft, even if the theft is not committed in the officer's presence.
  - M. *Expungement of Certain Crimes* – It requires a court to order the expungement of a person's arrest

record if the person is acquitted. It permits a person who has committed a nonviolent misdemeanor or Class D felony to have disclosure of the conviction restricted to criminal justice agencies if the person does not committed an additional felony for eight years.

- N. *Credit-Restricted Offenders* – It adds the following felonies to the list of offenders who receive one day of credit time for good behavior for every six days served: (1) all Class A and B child molesters; (2) all murders (3) voluntary manslaughter (4) Class A battery (5) Class A or B criminal deviate conduct; (6) Class A kidnaping (7) Class A neglect of a dependent; (8) Class A robbery; (9) Class and B rape It requires a sentencing court to inform the Department of Correction if a person is a credit-restricted felon, and makes a person who commits additional offenses a credit-restricted felon. It prohibits persons charged with offenses that would qualify them as a credit-restricted felon from paying a 10% cash bond.
- O. *County Offender Fund* – It requires each county to establish a county offender fund. It permits counties to make distributions from this fund.
- P. It provides that a person commits burglary if the person breaks and enters with the intent to commit theft.

(The introduced version of this bill was prepared by the Criminal Code Evaluation Commission.)

**Effective Date:** (Amended) July 1, 2011.

**Explanation of State Expenditures:** LSA examined the need for two different types of facilities for offenders:

- A reduction in the need for new dormitory beds to house offenders who have been sentenced for drug offenses and theft that are generally Class D felonies and
- A need for new cells to house credit-restricted felons who will be staying in prison for extended periods of time.

*Savings in Dormitory Beds --* The bill should result in potential savings to the Department of Correction by reducing the number of offenders committed to DOC and reducing their lengths of stay. Savings will be used to expand cognitive therapy programs for offenders committed to DOC and to fund community-based programs to improve probation, community corrections, and other community-based supervision of felons and misdemeanants. No appropriations are in the current bill, so a total net effect for the state General Fund cannot be determined.

DOC currently projects that the number of offenders that will be in DOC facilities over the next five to ten years will require the state to acquire land and build new facilities. The following table compares the number of offenders that DOC is likely to be housing between 2012 and 2017 under two scenarios: (1) if no changes are made to current sentencing statutes and (2) if changes are made to the sentencing statutes as specified in the bill.

FY	2012	2013	2014	2015	2016	2017
Prison Population With No Changes	30,669	31,453	32,257	33,081	33,927	34,794
Projected Population Based on Changes*	28,497	28,384	28,763	29,002	29,224	29,449
Difference	2,172	3,069	3,494	4,079	4,703	5,345
Savings to DOC (\$M) *	\$7.07	\$9.99	\$11.38	\$13.28	\$15.31	\$17.40
- Class D Admission Incentive	No Specific Appropriation in the Bill					
Net Savings for DOC	Net Savings to DOC will depend on appropriations					
* Population changes are explained in later portions of this fiscal note.						
**Cost savings are shown in millions based on an annual marginal cost savings of \$3,256 per offender.						

With a smaller population than anticipated if the sentencing laws are changed, DOC can avoid hiring additional correctional officers in the out years, but not necessarily reduce the number of correctional officers in DOC facilities. The table above shows the projected population based on changes in this bill. The DOC offender population on January 3, 2011, was 28,281. The projected populations between 2012 and 2017 based on the changes in this bill assume fewer offenders are sentenced for substance abuse crime and theft in DOC facilities. But the projected population in each of these years is still higher than the population in January 2011.

The following table and narrative describes the effect that the various provisions could have on the prison population.

	Dorm Bed Reduction by Fiscal Year					
	2012	2013	2014	2015	2016	2017
Expand Cognitive Behavioral Therapy/ Allowing for More Time Cuts	897	996	996	996	996	996
Divert Felony D offenders	325	325	325	325	325	325
Suspendible Felony D	72	145	145	145	145	145
Reduce Probation Revocations	305	457	457	457	457	457
Graduate Theft	218	218	218	218	218	218
Class C Forgery to Class D	319	319	319	319	319	319
Class C Auto Theft to Class D	44	44	44	44	44	44
Graduate Drug Sales	0	605	1,058	1,058	1,058	1,058

*Expanding Cognitive Behavioral Therapy* – DOC anticipates saving between 900 and 1,000 beds annually. Based on any anticipated future savings from fewer commitments, DOC anticipates using 20% of the marginal cost savings (\$651 in 2011) for expanding the number of offenders who could participate in cognitive therapy programs and consequently become eligible for a time cut of up to six months on their time in prison. The expansion of the cognitive therapy component does not need legislative changes since IC 35-50-6-3.3 permits a maximum six-month time cut for offenders who complete a reformatory program.

*Local Rehabilitation Incentive and Disincentive Program* – DOC would establish baseline averages for each county based on county commitments to DOC between CY 2007 and 2010. These baselines would not include Class D offenders who were originally sentenced to probation and whose probation had been revoked. In future years, counties committing fewer offenders than the four-year baseline average would receive 50% of the marginal cost (\$1,628 in 2011) to be distributed to the county council. The county council would then redistribute this money to probation and community corrections programs as the first priority and then to problem-solving courts and work release programs as a second priority.

If Class D felony commitments exceed the 2007-to-2010 baseline average *by ten offenders* in the calendar year, then the number of offenders in excess of the average would be multiplied by 50% of the marginal cost. This result would be subtracted from the County Misdemeanant Fund (IC 11-12-6-2), a funding source used to help pay for housing misdemeanants in county jails.

DOC anticipates that, at a minimum, 10% of new commitments would be placed on community supervision instead of being committed to DOC. The number of beds DOC would save is based on a six-month length of stay.

<b>6,491 Felony D admissions for New commitments in 2009</b>	
10% of 6,491	649
Average Length Of Stay	6 months
Bed Savings (annually) =	325

*Nonsuspendible Sentences* – Current law does not permit sentencing courts to suspend the sentences of defendants in adult court who have juvenile records for certain serious crimes that were committed within a three-year period. In addition, Class D offenders with a prior unrelated felony committed within the previous three years cannot have their full sentence suspended, and consequently placed on community supervision. This bill would remove both of these prohibitions and permit the court to place offenders with prior felony convictions in community supervision instead. DOC estimates that roughly 8% of these offenders would be diverted to community supervision saving 145 beds annually.

<b>Beds Saved through Removal of Nonsuspendible Sentences</b>					
Class D Commitments	Percent Diverted	Offenders Diverted	Adjusted for 6-Month Length of Stay	Estimated Beds Saved	
3,620	x 8%	= 290	x 50%	= 145	

*Crimes of Theft* – Several categories of theft are restructured. Under the general category of theft, the following changes are proposed.

<b>Proposed Changes in Economic Loss in Theft</b>		
	<b>Current Law</b>	<b>Proposed</b>
Class A Misdemeanor	none	\$750 or less
Class D felony	\$100,000 or less	between \$750 and \$50,000
Class C felony	\$100,000 or more	\$50,000 or more

DOC estimates that 20% of all felony thefts will be for less than \$750, reducing beds needed by 218 per year.

Both auto theft and forgery are Class C felonies and would be made Class D felonies.

For forgery, DOC estimates that 319 beds will be saved with this change since 891 Class C felons would be released 262 days sooner if they were Class D felons.

For auto theft, DOC anticipates 44 fewer beds needed, as 99 Class C felons would serve 324 days less if they were sentenced as Class D felons.

Proposed changes to insurance fraud, check deception, welfare fraud, Medicaid fraud, Insurance fraud, bank fraud, and check fraud offenses will affect certain thresholds of economic loss so that more offenders would be sentenced as D rather than C felons. LSA anticipates that any savings in beds are expected to be minimal. In CY 2009, about 45 offenders were committed to DOC for all of these offenses combined.

Changes in Drug Laws – DOC anticipates saving 1,058 beds per year as a number of Class A offenders are resentenced as either Class B or C felons.

Habitual Drug Offenders -- Case law does not generally permit courts to combine sentence enhancements from different statutory sources for persons convicted of crimes when they have had prior felonies. Consequently, prosecuting attorneys would have to select a specific enhancement shown below for persons who are convicted of a drug felony.

Depending on the choices made by the prosecuting attorney and the sentencing courts, the Department of Correction would likely need a small number of additional beds in the near future for this provision. The following table summarizes the need for new beds based on the analysis in this fiscal note.

<b>New Beds Needed for Offenders Being Committed As Habitual Offenders and Habitual Substance Offenders</b>								
	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>
Habitual Offenders	4	20	36	56	60	65	70	75
Habitual Substance Offenders	<u>4</u>	<u>20</u>	<u>36</u>	<u>52</u>	<u>56</u>	<u>58</u>	<u>59</u>	<u>60</u>
	8	40	72	108	116	123	129	135

Costs for New Cell Beds for Credit-Restricted Felons -- Offenders sentenced for the following crimes would serve six days before being permitted to receive one day of good time credit. LSA uses annual commitments between 1999 and 2010, the average length of stay for CY 2009 and 2010, and the average sentence for the

previous 5 years.

Credit Restricted Felons						
Offense / Felony Class	Annual Commits	Avg. Term of Years	Length of Stay in Years	Proposed Length of Stay	Current Release Year	New Release Year
Battery FA	3	34	5.1	29.1	2016	2040
Child Molesting FA	100	41	7.5	35.1	2019	2046
Criminal Deviate Conduct FA	8	54	11.4	46.3	2022	2057
Kidnaping FA	5	53	12	45.4	2023	2056
Murder	96	68	16.3	58.3	2027	2069
Neglect of Dependent/Death FA	4	29	11	24.9	2022	2036
Rape FA	13	55	15.4	47.1	2026	2058
Robbery FA	19	34	9.1	29.1	2020	2040
Voluntary Manslaughter FA	26	33	9.4	28.3	2020	2039

LSA projects out to FY 2040 to estimate the number of new beds that would be needed to accommodate these additional offenders for their extended length of stay. The first year that new offenders will significantly affect DOC facilities is 2019.

New Beds Needed for Additional Credit Restricted Felons by Fiscal Year in \$M								
	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2025</u>	<u>2030</u>	<u>2035</u>	<u>2040</u>
Cost per Bed *	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000	\$63,000
New Beds Needed	<u>6</u>	<u>9</u>	<u>112</u>	<u>260</u>	<u>1,063</u>	<u>2,337</u>	<u>3,707</u>	<u>5,035</u>
Total Costs	\$0.38	\$0.57	\$7.06	\$16.38	\$66.97	\$147.23	\$233.54	\$317.21

\* Cost includes the estimated cost of construction of a maximum security bed plus the marginal cost of incarcerating an inmate.

Because of the need for new cells due to longer stays, DOC would have to build additional facilities. As an illustration of future costs, DOC would likely need to have a facility the size of Miami Correctional Facility by 2035 to house these additional offenders. Miami's average daily population in FY 2010 was 3,152 offenders and had an operating budget of \$49 M.

Impacts of Other Provisions-

*Marginal Cost and Incentive and Disincentive Program for Class D Felony Offenders and Expand Cognitive Behavioral Therapy To Allow More Early Releases Through Credit Time* – DOC would determine an average daily marginal cost to house one new offender without building additional beds. DOC uses a portion of medical costs, meals, and uniforms to estimate \$8.92 per day, or \$3,256 a year. This marginal cost estimate is used to determine certain savings that can be reinvested into two new funding programs described below.

Estimated Marginal Daily Cost for Incarcerating One New Offender in 2011					
Medical*		Food		Uniforms	Total
\$1,617	+	\$1,274	+	\$365	= \$3,256
*Medical cost contracts allow for 2% annual growth					
How Marginal Savings will be used					
20%	X	\$3,256	=	\$651	Cognitive Therapy Expansion
50%	X	\$3,256	=	\$1,628	Class D Diversion
50% of marginal savings for Class D diversion is in proposed legislation					

*Supervision of Offenders Released from DOC* – Under current sentencing statutes, a court with criminal jurisdiction gives a criminal defendant found guilty of a felony a sentence. Whether the offender is released on probation or parole depends on whether the judge makes the offender serve the entire sentence in DOC.

- The offender will be released on parole if the court requires the convicted defendant to serve the full sentence in DOC. While in DOC custody, the offender could be permitted to receive time cuts through good conduct and by participating in education, substance abuse, and rehabilitative programs. With time cuts, the offender can be released from DOC at an earlier time than originally sentenced. Once the offender is released, the offender will be on parole for either one year, two years, ten years, or lifetime depending on the felony for which the offender was convicted.
- Offenders who receive no time while in prison will not be on any community supervision.
- The offender will be released on probation if the court suspends a portion of the sentence and requires the convicted person to serve this suspended portion of the sentence in community supervision after serving the initial portion in DOC.

Effective July 1, 2011, this bill will put offenders in one of two different supervision plans upon release. Those who were committed to DOC for murder, any Class A felony, any sex crime, or incest will be supervised by parole officers when released from prison. And for all other Class B, C, and D felons, courts will suspend six months to three years of their sentences so that when these offenders are released, they will be under community supervision for a period of time. Offenders violating the conditions of supervision can be ordered by the court to return to DOC to serve the remaining time there.

LSA uses the number of offenders committed in CY 2009, the most recent year available, to illustrate how this bill might affect the number of offenders that would be on parole and the number under community supervision. Under current law, offenders released from DOC can be released to probation and other community supervision programs, community transition programs (CTP), parole, out-of-state parole, or discharged with no supervision. As proposed, this bill would require offenders, who are released from DOC to be placed on parole if they were committed for murder, any Class A felony, or any sex crime or incest. All other Class B, C, and D felons would be placed on either probation, community correction, or problem-solving courts.

Based on their earliest possible release date, whether these offenders had any type of suspended sentence and the proposed changes in release assignments under this bill, the following shows how the parole population could change. The ultimate cost savings from this provision would be reflected in future levels of

appropriations.

Estimated Effect of Change in Parole Caseload Based on DOC Commitments in CY 2009									
	Year of Release Based on 2009 Commitments								
	2009	2010	2011	2012	2013	2014	2015	2016	2017
No Change in Parole	72	150	79	41	34	21	11	16	16
<b>From Parole to Probation</b>	<b>(3,677)</b>	<b>(3,712)</b>	<b>(1,135)</b>	<b>(454)</b>	<b>(300)</b>	<b>(214)</b>	<b>(90)</b>	<b>(61)</b>	<b>(39)</b>
From Probation to Parole	69	123	73	41	36	25	20	14	10
<b>Net Change in Offenders on Parole</b>	<b>(3,608)</b>	<b>(3,589)</b>	<b>(1,062)</b>	<b>(413)</b>	<b>(264)</b>	<b>(189)</b>	<b>(70)</b>	<b>(47)</b>	<b>(29)</b>

(Revised) *Expunging Criminal Records (see Explanation of Local Expenditures)* – Depending on the number of petitions for prohibiting release of arrest and charging data, the Indiana State Police may need additional staff to implement these court orders to prohibit release of arrest data.

(Revised) *Bulk Data Exporting* – JTAC would have to hire consultants to write a computer program that would make a copy of case records in Odyssey and transmit the copies to other entities requesting Odyssey bulk data. JTAC will have to include in their programming the ability to make copies of records that have been added to Odyssey once the initial copy was made and to only transmit those copies to the other entities. Depending on the number of requests that JTAC would receive, JTAC would have to coordinate with each requestor to make a point-in-time copy of the records before that requestor could begin receiving the hourly updates. As JTAC receives new releases of the software from Tyler, the vendor that JTAC uses for the computer program that has been developed for the extraction discussed above. The computer program will have to be modified to accommodate the changes to the software. JTAC is scheduled to accept new releases once or twice each year.

Since JTAC does not have this functionality at this time, it will have to conduct a thorough testing of the program to ensure that the extraction of data does not impede or impair application performance for all Odyssey users. If JTAC finds that it does, steps could be taken to add additional hardware which would result in additional costs.

**Explanation of State Revenues:** *GPS Monitoring of Sexually Violent Predators* -- This bill would affect three different funds at the state level:

- The state General Fund;
- The Public Defense Fund, which reimburses county expenditures for legal representation for indigent defendants in criminal cases;
- The State Sex and Violent Offender Administration Fund to help maintain the Indiana Sex and Violent Offender Registry. This bill would also help to fund a portion of the expenses for GPS monitoring of sexually violent predators and sex and violent offenders.

The revenue transfers are shown in the following table.

	<b>Deferred Prosecution Fee</b>	<b>Initial User Fee for Misdemeanors, Infractions, and Ordinance Violations</b>	<b>Total Change</b>
<b>General Fund</b>	(\$42,044)		(\$42,044)
<b>State Sex and Violent Offender Admin. Fund</b>	\$21,022	\$99,303	\$120,325
<b>Public Defense Fund</b>	\$21,022	\$99,303	\$120,325

The bill is estimated to result in a revenue transfer of \$21,000 from the state General Fund to the Public Defense Fund and \$21,000 to the State Sex and Violent Offender Administration Fund. Persons who enter into a misdemeanor diversion program with the local prosecuting attorney pay a \$120 fee. The state General Fund's share is 70% if the case is filed in a trial court and 55% if the case is decided in a city or town court. This bill would transfer a portion of the state share that would then be split evenly between the State Sex and Violent Offender Administration Fund and the Public Defense Fund.

A five-year average of cases disposed through the prosecuting attorneys pretrial diversion program was used to estimate this transfer.

<b>Revenue Transfer from State General Fund to State Sex and Violent Offender Administration Fund and Public Defense Fund</b>									
<b>Venue</b>	<b>Cases Diverted</b>		<b>Fee</b>		<b>State Share</b>		<b>Percent</b>		<b>Amount Of Transfer</b>
<b>Trial Courts</b>	14,878	x	\$120	x	70%	x	2.4%	=	\$29,994
<b>City and Town Courts</b>	6,086	x	\$120	x	55%	x	3%	=	\$12,050
									\$42,044

**Explanation of Local Expenditures:** More offenders will be committed to community supervision programs, including probation, community corrections programs, and problem-solving courts as a result of this bill. The increase in offenders will result as more offenders are sentenced to community supervision programs instead of being incarcerated and because more offenders will be released to community supervision rather than to parole. In addition, some counties will have to process probation violations at a faster rate rather than allowing probationers who violate their court orders to remain in jail for longer than 15 days.

*Level of Supervision Required by Risk Level* – This bill gives explicit standards for supervising offenders who are released on probation.

<b>Risk Level/Crime</b>	<b>Type of Supervision</b>	<b>Duration</b>
High	Active	All Times
Low or Medium Misdemeanant	Active	First 9 Months
	Administrative	Remaining Time on Probation
Low or Medium Felon	Active	First 12 Months
	Administrative	Remaining Time on Probation

*More Class D Felons Diverted to Community Supervision* – Diverting more offenders to probation and allowing more Class D offenders with prior felons to have their sentences suspended is likely to increase the

number of new offenders in community supervision. DOC and the Council of State Government consultants anticipate almost 900 new offenders will be sentenced to probation rather than being committed to DOC. Depending on their criminal background and other risk factors, local programs may need more probation officers to supervise these offenders and to expand the types of mental health and substance abuse treatment at the local level. In general, Class D offenders are likely to be on active supervision for six to twelve months.

<b>New Offenders Diverted to Probation Due to Proposed Changes</b>						
	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Theft (20% of reclassified as misdemeanants)	428	428	428	428	428	428
Divert Felony D offenders	325	325	325	325	325	325
Suspendible Felony D	<u>72</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>	<u>145</u>
New Offenders	825	898	898	898	898	898

*Supervision of Offenders Released from DOC* – (See also *Explanation of State Expenditures*.) Beginning July 1, 2011, offenders who have been sentenced for Class B, C, or D felonies that are not sex crimes or incest will have a suspended sentence. As a result, these offenders will all have a period of time ranging between six months and three years where they will be on community supervision after release from prison. Offenders who are currently in DOC who are in this category and do not have a suspended sentence will be released on parole and be supervised by DOC parole officers. Over time, though, the number of offenders who will be on probation could increase significantly.

LSA used 2009 commitments to simulate the potential effect that this bill might have on counties in the first year. LSA assumed that if an offender had any suspended time off their sentence, then they would be released on probation. LSA estimates that 3,677 more offenders will be released on probation in the first year under this proposal. The additional offenders released on probation in the first two years will be almost all Class D felons. Depending on the risk levels and need for active supervision, probation departments may need more probation officers. The ultimate impact on each county will depend on each offender's risk level and crime. Some of the added costs would likely be partially recovered from user fees paid by the offenders on probation.

<b>Estimated Effect of Change in Community Supervision Caseload Based on DOC Commitments in CY 2009</b>										
		2009	2010	2011	2012	2013	2014	2015	2016	2017
<b>Current Law</b>	<b>No Change in Probation</b>	<b>1,917</b>	<b>1,406</b>	<b>538</b>	<b>400</b>	<b>176</b>	<b>112</b>	<b>51</b>	<b>35</b>	<b>13</b>
<b>Proposed</b>	From Parole to Probation	3,677	3,712	1,135	454	300	214	90	61	39
	From Probation to Parole	69	123	73	41	36	25	20	14	10
	<b>Net Effect on Probation</b>	<b>3,608</b>	<b>3,589</b>	<b>1,062</b>	<b>413</b>	<b>264</b>	<b>189</b>	<b>70</b>	<b>47</b>	<b>29</b>
<b>Net Effect</b>	<b>Offenders Released</b>	<b>5,525</b>	<b>4,995</b>	<b>1,600</b>	<b>813</b>	<b>440</b>	<b>301</b>	<b>121</b>	<b>82</b>	<b>42</b>

*Probation Revocation* – This bill limits the amount of time that an offender who has been placed on probation and has probation revoked due to a new crime or technical violation may remain in jail without bond is 15

days. During 2009, 9,967 felony offenders who were on probation had their probation revoked because they were determined to have committed a new offense or committed a violation.

Depending on current jail conditions and court workload, this provision could increase the workload of certain courts.

*Habitual Offender Charging Information* – This portion should have no substantive effect on court proceedings.

(Revised) *Bail for Credit-Restricted Felons* – This provision is likely to have minimal impact on county jails since most persons charged with these serious offenses will remain in jail for long periods of time prior to trial. LSA examined the jail credits of 242 offenders who were committed to DOC in 2010 for the crimes that would qualify them as credit-restricted felons. Of these, 18 had a jail credit of 2 or fewer days, while 165 had jail credits of 180 days or more.

(Revised) *Expungement of Certain Crimes* – Offenders who have completed their terms of incarceration and completed any additional conditions ordered by the sentencing court can petition the sentencing court to order the Indiana State Police to restrict access to the records about the person's arrest and involvement in criminal or juvenile court proceedings. Depending on the county and caseload, this provision should have a minimum impact on the local courts.

**Explanation of Local Revenues:** *Added Deferral and Diversion Fees are Deposited into a County Offender Fund* – Persons who agree to enter into diversion programs for misdemeanors and deferral programs for infractions and misdemeanors will pay additional fees. The added diversion fee will be \$30, and the deferral fee will be \$15. The added revenue is estimated to be \$2 M. These fees will be deposited into a County Offender Fund. Money in the fund may be spent only under an appropriation from the county fiscal body. In appropriating money from the fund, the fiscal body shall give first priority to programs that defray the expense of housing an offender in jail, second priority to probation and community corrections programs, and third priority to problem-solving courts and work release programs.

**State Agencies Affected:** Department of Correction; Indiana Judicial Center.

**Local Agencies Affected:** County sheriffs.

**Information Sources:** Department of Correction; *Justice Reinvestment in Indiana: Summary Report and Policy Framework*, December 2010; Amanda Copeland, Ph.D. Department of Correction; Mary Deprez, Executive Director, Judicial Technology Automated Project, Indiana Supreme Court.

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