

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4396-01  
Bill No.: HB 1749  
Subject: Crimes and Punishment  
Type: Original  
Date: February 11, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
General Revenue	Less than (\$100,000)	Less than (\$100,000)	Less than (\$100,000)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>Less than (\$100,000)</b>	<b>Less than (\$100,000)</b>	<b>Less than (\$100,000)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

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## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Public Safety – State Highway Patrol** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

Officials from the **Office of State Public Defender** assume existing staff could provide representation for those cases arising where indigent persons were charged with attempted forcible rape and attempted forcible sodomy, both crimes escalated to a class A felony. Last FY, the State Public Defender System provided representation in 182 rape cases (566.030) and 87 sodomy cases (566.060). Passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing indigent persons accused in the now more serious cases or the new additional cases.

Officials from the **Office of Prosecution Services** assume prosecutors could absorb the costs of the proposed legislation within existing resources.

In response to a similar proposal from the current session (HB 1656), officials from the **Office of Attorney General (AGO)** assume the legislation may result in additional appeals because the minimum term of imprisonment will increase from five years to ten years. In addition, the AGO foresees that additional cases may be filed pursuant to Section 1.160 that would result in additional work for AGO. As a result, AGO assumes that future costs are unknown.

**Oversight** assumes the AGO could experience an increase in case load due to the proposed legislation. Oversight assumes the AGO could absorb the cost of the increased case load within existing resources. If the AGO experiences an increase that would justify additional FTE, the AGO could request funding through the appropriation process.

Officials from the **Department of Corrections (DOC)** assume this bill removes the statute of limitations for prosecuting Forcible Rape or Forcible Sodomy or their attempt by classifying them as a class A felony. Previously these were unclassified crimes. It was at the discretion of the Prosecutor of a case (upon examination and weighing of the crime facts) how they chose to prosecute a rape or sodomy case and what the defendant would be charged. Pursuant to existing law, when these crimes are charged as a class A felony, prosecution may be commenced at any time; in other words, the statute of limitations does not apply. DOC is unable to predict any fiscal impact that defining “attempted” language may have.

ASSUMPTION (continued)

In FY01 there were 3 admissions to DOC for Forcible Rape when the time between the offense and sentence date exceeded 3 years. There were 7 such admissions for Forcible Sodomy. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) additional persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of these crimes, the DOC assumes the impact would be less than \$100,000 per year.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections Incarceration/Probation costs	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>Less than <u>(\$100,000)</u></b>	<b>Less than <u>(\$100,000)</u></b>	<b>Less than <u>(\$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would classify forcible rape and forcible sodomy as class A felony offenses. Currently, forcible rape and sodomy are felonies, but are not classified. The proposal would also create the crimes of attempted forcible rape and attempted forcible sodomy, which would also be class A felonies.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space. This legislation would not affect Total State Revenue.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Office of State Public Defender  
Department of Public Safety  
    – State Highway Patrol  
Office of Prosecution Services  
Department of Corrections  
Office of Attorney General



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Acting Director

February 11, 2002