

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 290** HLS 10RS 331
 Bill Text Version: **ORIGINAL**
 Opp. Chamb. Action:
 Proposed Amd.:
 Sub. Bill For.:

Date: April 6, 2010	2:35 PM	Author: TALBOT, KIRK
Dept./Agy.: Corrections		Analyst: Matthew LaBruyere
Subject: Sex Offenses		

CRIME/SEX OFFENSES OR INCREASE GF EX See Note Page 1 of 2
 Provides with respect to pornography involving juveniles

The proposed legislation redefines the law of pornography involving juveniles. It amends the definitions of "sexual performance," defines the terms "distribute", "pornography involving juveniles", and "produce"; and deletes the definitions of "performance", "sexual conduct", and "promote". It amends the present law penalties for possession to a maximum fine of \$10,000 and imprisonment at hard labor for 2 to 10 years; creates penalties with a maximum fine of \$10,000 and imprisonment at hard labor for 5 to 10 years for distribution and possession with intent to distribute; creates the penalty of a maximum fine of \$10,000 and imprisonment at hard labor from 5 to 20 years for any parent, legal guardian, or custodian of a child who consents to the participation of the child in pornography involving juveniles; and creates the penalty of a maximum fine of \$15,000 and imprisonment at hard labor for 10 to 20 years for the production of pornography involving juveniles. Penalties when the victim is under the age of 13 involve the offender monitored electronically for the remainder of his life, imprisonment at hard labor for 25 to 99 years with 25 years served without the benefit of probation or parole.

EXPENDITURES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	INCREASE	INCREASE	INCREASE	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

REVENUES	2010-11	2011-12	2012-13	2013-14	2014-15	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	SEE BELOW					
Annual Total	\$0	\$0	\$0	\$0	\$0	\$0

EXPENDITURE EXPLANATION

The proposed legislation may result in an increase in state general fund expenditures. The exact fiscal impact of the passage of this legislation is indeterminable since it is not known how many people will be convicted of these crimes. An increase in state general fund expenditures would be recognized in FY 13 due to offenders sentenced to serve at least 5 years instead of at least 2 years under present law.

If the offender was housed at the local level the increase in cost for 3 additional years would be \$26,706 (\$8,902 per offender per year x 3 years) and \$59,667 (\$19,889 per offender per year x 3 years) if housed at a state facility. However, any offender sentenced to the custody of the Department of Public Safety and Corrections increases expenditures by \$24.39 per day per offender in local facilities. To the extent that offenders are sentenced and housed in state facilities, the cost per day per offender is \$54.49. Currently, the Department of Corrections houses 50% of state offenders at the local level and 50% at the state level. In addition, the cost for electronic monitoring is \$4.44 per day.

According to the Department of Corrections there are currently 121 offenders incarcerated for the crime of pornography involving juveniles with an average sentence of 7.64 years. In 2009 there were 34 admissions with an average sentence of 7.64 years and 18 releases (convicted prior to 2009) with an average time served of 3.06 years. The average age of offenders released was 43.

In addition, there are 30 offenders incarcerated for the crime of pornography involving juveniles whose victims were under the age of 13 with an average sentence of 8.93 years. In 2009 there were 6 admissions with an average sentence of 6.16 years and 18 releases with an average time served of 1.4 years and an average age of 29. In 2008, there were 9 releases with an average time served of 2 years and an average age of 41.

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REVENUE EXPLANATION

There is no anticipated direct material effect on state revenues as a result of this measure. However, any revenue generated through the imposition of fines created by this legislation would accrue to local government entities.

Senate
 13.5.1 >= \$500,000 Annual Fiscal Cost

Dual Referral Rules

13.5.2 >= \$500,000 Annual Tax or Fee Change

House
 6.8(F) >= \$500,000 Annual Fiscal Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease

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CONTINUED EXPLANATION from page one:

A person convicted of crime of pornography involving juveniles whose victims were under the age of 13 would have to serve at least 15 years for possession, distribution, and possession with intent to distribute; at least 30 years for parents or guardians consenting to participation in child pornography; and at least 25 years for engaging in production of pornography including juveniles without the benefit of probation, parole, or suspension of sentence. Each additional year spent at local level would be a cost to the state of \$8,902 per offender and \$19,889 per year per offender at a state facility. The cost spent to electronically monitor the offender once he is released from prison may be less since the offender will be incarcerated longer; thus have less years to be electronically monitored. However, any savings would be offset by the offender being incarcerated. For each year the offender remains in prison instead of on being electronically monitored the increase in costs will be \$19.95 (\$24.39 per day - \$4.44 per day) if housed in a local facility and \$50.05 (\$54.49 - \$4.44) if housed in a state facility.

Senate Dual Referral Rules

13.5.1 >= \$500,000 Annual Fiscal Cost

13.5.2 >= \$500,000 Annual Tax or Fee Change

House

6.8(F) >= \$500,000 Annual Fiscal Cost

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease


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