

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6567

BILL NUMBER: HB 1221

NOTE PREPARED: Jan 1, 2024

BILL AMENDED:

SUBJECT: Material That Is Obscene or Harmful to Minors.

FIRST AUTHOR: Rep. Abbott

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill defines terms and amends the education and criminal laws related to material that is obscene or harmful to minors.

Effective Date: July 1, 2024.

Explanation of State Expenditures: The number of new cases that could be prosecuted under this bill is expected to be small. As a result, the bill will likely have minimal impact on state expenditures.

Under current law, schools could be prosecuted for either disseminating material that is harmful to minors or permitting performances that are harmful to minors and cannot offer a legal defense. This bill would allow them to have a legal defense for either acting within the scope of employment or permitting certain performances approved for instruction on human sexuality by the governing body of the school corporation, charter school, or accredited nonpublic school.

Additional Information - Between FY 2017 and 2023, an average of 29 persons per year were convicted and sentenced for disseminating materials that were harmful to minors as either Class D or Level 6 felonies. Of those who were convicted and sentenced for a Level 6 felony, 11% were confined in a DOC facility with an average sentence of 1.74 years.

A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of 1 year. The sentence depends on mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$28,110 annually, or \$76.96 daily, in FY 2023. (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 \$4,456 annually, or \$12.21 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene. The estimated average cost of housing a juvenile in a state juvenile facility was \$112,655, or \$308.43 daily, in FY 2023. The marginal cost for juvenile facilities was \$6,325 annually or \$17.33 daily

The entire Level 6 sentence may be suspended and the person placed on either probation or community correction. If no time is suspended, the offender can receive good time credit of 50% and educational credit time. After adjusting for credit time, the offender can be released from prison and placed on parole.

Explanation of State Revenues: 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 Level 6 felony is \$10,000. Criminal fines are deposited in the Common School Fund. The total fee revenue per case would range between \$113 and \$135. The amount of court fees deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be minimal.

School Corporations, Charter Schools: The bill could potentially increase the workload of the school corporation, charter school, or accredited nonpublic school to ensure that all materials obscene or harmful to minors are removed from the school. The bill also requires the schools to document all the materials in classroom libraries.

Additional Information – The bill provides that a school corporation, public school, charter school, accredited nonpublic school, an employee, a contractor, or a third party vendor could be charged with committing a Level 6 felony for knowingly making available or provide to a student material that is obscene or harmful to minors IC 35-49-3-3.

Of those who have been convicted and sentenced for disseminating materials that are harmful to minors as a Level 6 felony, 79% were confined in a county jail prior to trial. The average cost per day is approximately \$64.53 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 11 county jails across Indiana during CY 2021.

These offenders could also be confined in a county jail post sentencing, or supervised on community corrections, probation, or both.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, more revenue will be collected by certain local units. If the case is filed in a court of record, the county general fund will receive \$47.40 and qualifying municipalities will receive a share of \$3.60. If the case is filed in a municipal court, the county receives \$30, and the municipality will receive \$46. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in criminal, juvenile, and civil violation cases.](#)

State Agencies Affected: Department of Education; Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies; school corporations

Information Sources: CY 2017 - 2023 Abstracts of Judgment, Indiana Supreme Court; Department of Correction; U.S. Department of Justice Marshals Service.

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