LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6583
BILL NUMBER: HB 1128

NOTE PREPARED: Dec 28, 2022
BILL AMENDED:

SUBJECT: Reporting of Child Abuse or Neglect.

FIRST AUTHOR: Rep. Cash
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

It provides that coaches and athletic facility staff members have a duty to report child abuse to: (1) the Department of Child Services (DCS) or the local law enforcement agency; and (2) the individual in charge of the school or athletic facility.

It provides that the individual in charge of the school or athletic facility has a duty to report or cause the child abuse to be reported.

It provides that a criminal investigation under this law does not affect a victim's right to seek civil remedies.

It requires that if a report alleges that a youth coach is the abuser, the DCS shall investigate the school or athletic facility to determine whether the school or athletic facility reasonably should have known that the alleged abuse was happening.

It provides that in determining whether the school or athletic facility reasonably should have known, the DCS may consider: (1) whether there have been previous allegations against the coach; (2) whether there are disciplinary records for the coach involving inappropriate behavior with a minor; and (3) whether the school or athletic facility properly reported any previous allegations against the coach or disciplinary records involving the coach's inappropriate behavior with a minor.

It also raises the penalty for failure to report to a Level 5 felony. (Under current law, it is a Class B misdemeanor.)

Effective Date: July 1, 2023.

Explanation of State Expenditures: The bill increases the penalty for knowingly or intentionally failing to report child abuse or neglect from a Class B misdemeanor to a Level 5 felony. State expenditures would increase if an offender is incarcerated in a state prison for a longer period of time rather than in a local jail. Between 2015 and 2021, OFMA only found 6 people who were convicted of a Class B misdemeanor for failing to report child abuse or neglect.

Department of Child Services (DCS): If allegations of abuse are filed against a youth coach, the DCS shall investigate the school or athletic facility to determine whether the school or athletic facility reasonably should have known about the abuse. It also provides that the DCS may investigate under certain circumstances.

Penalty Provision: A Level 5 felony is punishable by a prison term ranging between 1 to 6 years, with an advisory sentence of 3 years. The period of incarceration will depend upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was $27,185, or $74.43 daily, in FY 2022. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the incremental cost per offender for medical care, food, and clothing is approximately $4,456 annually, or $12.21 daily. The entire Level 5 sentence may be suspended and the person placed on either probation or community corrections. If no time is suspended, the offender can receive good time credit of 25% and educational credit time. After adjusting for credit time, the offender can be released from prison and placed on parole.

Explanation of State Revenues: More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. The maximum fine for a Class B misdemeanor is $1,000, while the maximum fine for a Level 5 felony is $10,000. Court fees for both misdemeanors and felonies are $120.

Explanation of Local Expenditures: To the extent that the penalty is increased for failing to report child abuse or neglect from a misdemeanor to a felony, the offender may be sentenced to state prison rather than to a county jail, and the costs to the county may be reduced. The maximum term of imprisonment for a Class B misdemeanor is up to 180 days. The average cost per day to incarcerate a prisoner is $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.

Explanation of Local Revenues: No additional revenues would be expected since the court fees for both misdemeanors and felonies are $120.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: IC 31-33-22-1; U.S. Department of Justice Marshals Service.

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