

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6388**

**BILL NUMBER:** HB 1363

**NOTE PREPARED:** Mar 27, 2023

**BILL AMENDED:** Feb 2, 2023

**SUBJECT:** Criminal Mischief and Criminal Trespass.

**FIRST AUTHOR:** Rep. Negele

**FIRST SPONSOR:** Sen. Alting

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Criminal Mischief* – It provides that a person who recklessly, knowingly, or intentionally damages the property of a scientific research facility without the consent of, or with consent which was fraudulently obtained from, the owner, possessor, or occupant of the property that is damaged commits criminal mischief, a Class A misdemeanor.
- B. *Criminal Trespass* – It provides that a person who, not having a contractual interest in the property, knowingly or intentionally enters the real property of a scientific research facility without the permission of, or with permission which was fraudulently obtained from, the owner of the scientific research facility or an authorized person, and knowingly or intentionally engages in conduct that causes property damage to: (1) the owner of or a person having a contractual interest in the scientific research facility; (2) the operator of the scientific research facility; or (3) a person having personal property located on the property of the scientific research facility; commits criminal trespass, a Level 6 felony.

**Effective Date:** July 1, 2023.

**Explanation of State Expenditures:** There would be new Level 5 and Level 6 felonies for both criminal trespass and criminal mischief. Any increase in DOC's population is expected to be minimal. Between FY 2020 and 2022, 13 persons were convicted and sentenced for trespassing on scientific research facility and none were sentenced to DOC for a Level 6 felony.

A Level 5 felony is punishable by a prison term ranging from 1 to 6 years, with an advisory sentence of 3

years. The sentence depends on mitigating and aggravating circumstances. A Level 6 felony is punishable by a prison term ranging from 6 to 30 months, with an advisory sentence of one year.

The average expenditure to house an adult offender was \$27,185 annually, 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 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 \$130,547, or \$357.42 daily, in FY 2022. The marginal cost for juvenile facilities was \$5,125 annually or \$14.04 daily

The sentences for both Level 5 and 6 felonies 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:** 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 all felonies is \$10,000 and \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit or superior court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, the automated record keeping fee (\$20) is deposited into the state user fee fund, and the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$3) are deposited into the state General Fund.

**Explanation of Local Expenditures:** There would be a new Class A misdemeanor for committing criminal mischief on the property of a scientific research facility. A Class A misdemeanor is punishable by a term of up to one year in a county jail.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. 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.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. Persons found guilty of a felony are also required to pay the document storage fee (\$5), which is deposited into the clerk record perpetuation fund, and the jury fee (\$2) and the law enforcement continuing education fee (\$4), which are both deposited in the county user fee fund.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Department of Correction, U.S. Department of Justice Marshals Service.

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