

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT

LS 6997
BILL NUMBER: HB 1312

NOTE PREPARED: Jan 9, 2026
BILL AMENDED:

SUBJECT: Penalties for Certain Sex Offenses.

FIRST AUTHOR: Rep. Ireland
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Definition: This bill defines "aggravated child molesting".

Death Penalty or Life Without Parole: It provides that the state may seek either a death sentence or a sentence of life imprisonment without parole for a person convicted of aggravated child molesting.

Requirements: It provides requirements for a jury or court to impose either a death sentence or a sentence of life imprisonment without parole. It also makes conforming changes.

Effective Date: July 1, 2026.

Explanation of State Expenditures: *Summary* - To the extent that the prosecuting attorney seeks the death penalty or life without parole for "aggravated child molesting", state expenditures could significantly increase. Both the state General Fund (which pays for the costs of housing offenders in the Department of Correction (DOC) facilities) and the State Public Defense Fund (which reimburses counties for qualified expenses of providing criminal defense for indigent defendants) would be affected by this bill.

Between FY 2020 and FY 2025, OFMA identified a total of 2,146 cases of child molesting, averaging 358 cases per year. Of these cases, 771 (36%) involved defendants who were reportedly at least 21 years of age, were convicted and sentenced for a Level 1 felony, and were confined in DOC facilities for an average of approximately 31.8 years. While the exact number of victims under the age of 12 is unknown, in at least 5% of cases the victim was reportedly under the age of 14 at the time of the offense.

Additional Information - The following table shows the probability of confinement and the average sentence length for individuals convicted and sentenced for child molesting between FY 2020 and FY 2025, by felony level.

Felony Level	Average Number of Convictions Per Year	Number of Pretrial Days (in days)	Percent Confined in DOC	Average Executed Sentence in Years (in years)
Level 1	109	445	99.7%	31.80
Level 2	1	436	100%	16.67
Level 3	48	312	93.3%	8.96
Level 4	158	277	87.7%	6.76
FA	21	466	99.6%	33.41
FB	5	343	95.2 %	10.93
FC	16	221	81%	5.12

Death Penalty or Life Without Parole: State expenditures will increase if a defendant is subject to a death penalty or life in prison without parole rather than a term sentence. However, if a prosecuting attorney requests the death penalty and the court imposes a death sentence on a defendant, then state expenditures may be less for the cost of incarceration than when a prosecuting attorney seeks and the court imposes life imprisonment without parole or fixed term.

For death penalty cases, counties are reimbursed for 50% of these costs. For cases that are not death penalty murder cases, counties are reimbursed for 40% of their costs when the county complies with the noncapital standards adopted by the Commission for Court Appointed Attorneys.

The Public Defense Fund reimburses counties for the following costs of providing indigent defense services: attorney fees, investigations, expert witnesses, paralegals, transcript costs, and cost of direct appeals.

The following table presents the total costs for each sentence option.

Average Cost for Confinement and Legal Representation of Criminal Defendants Who Were Eligible for the Death Penalty in Murder Trials Between 1995 and 2020 All Costs Are Stated in 2025 Dollars					
Original Request	Number of Cases	Average Cost of Incarceration Per Case*	State Reimbursement Counties	Average Costs to State Public Defense*	Combined Costs
Death	46	\$319,921	50%	\$282,184	\$602,105
Life Without Parole	34	\$352,113	40%	\$21,350	\$373,463
Term Sentence	171	\$355,738	40%	\$11,975	\$367,713

*Adjusted for inflation.

The average expenditure to house an adult offender was \$30,674 annually, or \$83.98 daily, in FY 2025. If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care,

food, and clothing is approximately \$4,825 annually, or \$13.22 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.

Intellectual Disability: Individuals determined to have an intellectual disability are not eligible for the death penalty or life without parole but may be sentenced to a fixed term of incarceration. Limiting sentencing options to a fixed term for these individuals could increase confinement costs but reduce criminal defense costs for indigent defendants. The cost to the state of confining individuals to a term of years is slightly higher than the cost of a life without parole sentence. On average, the State Public Defense Fund spends \$9,300 less when an individual receives a term of years rather than a life sentence.

“Individual with an intellectual disability” means an individual who, before becoming twenty-two years of age, manifests: (1) significantly subaverage intellectual functioning; and (2) substantial impairment of adaptive behavior; that is documented in a court ordered evaluation report.

Explanation of State Revenues:

Explanation of Local Expenditures: Death Penalty or Life Without Parole: The added costs for requesting the death penalty will likely increase the costs of defense for the county. Counties pay the costs of the criminal defense for indigent defendants and are reimbursed for a portion of the costs from the Public Defense Fund. The fund reimburses counties for 50% of the costs if the death penalty was requested and 40% if either life without parole or a fixed term of years were requested instead.

Counties pay all costs related to jury trials (when defendants request jury trials), in addition to a portion of indigent defense expenses. If a case is tried by a jury, the county would save an average of \$44,700 if the defendant is sentenced to a fixed term of years.

Intellectual Disability: If a fixed term of incarceration is the only sentencing option in murder cases where the defendant has been determined to have an intellectual disability, the county in which the trial occurs could save an estimated \$2,120 in trial costs and \$13,000 in indigent criminal defense expenses.

Original Request	Number of Cases	Average Cost of Jury Trials	County Share	Average Costs for Indigent Criminal Defense*	Combined Costs
Death	46	\$54,113	50%	\$282,184	\$336,297
Life Without Parole	34	\$9,399	60%	\$29,653	\$39,052
Term Sentence	171	\$7,279	60%	\$16,632	\$23,911

Pretrial Costs: Any person charged with child molesting is likely to be confined in a county jail or in a DOC facility. If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The Gateway reports show that in CY 2023, housing offenders in 33 Indiana county jails cost an average of \$56 to \$79 per day.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction; State Public Defender; Office of the Attorney General; Public Defender Commission; Division of State Court Administration, Indiana Supreme Court.

Local Agencies Affected: Trial courts; Prosecuting attorneys; County sheriffs; local law enforcement agencies.

Information Sources: Department of Correction; Public Defense Fund; OFMA survey of counties; Indiana Public Defenders Council; Health Expenditures by Age and Gender <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Age-and-Gender> The Indiana Lawyer, *Indiana's death row dwindles to five - and future executions remain*, December 28, 2025, <https://www.theindianalawyer.com/articles/indianas-death-row-dwindles-to-five-and-future-executions-remain-uncertain#:~:text=Pending%20capital%20cases,2024%2C%20Supreme%20Court%20data%20shows.>; Death Penalty Information Center, *COSTS: Indiana Death Penalty Cases Can Cost \$1 Million*, January 1, 2026, <https://deathpenaltyinfo.org/costs-indiana-death-penalty-cases-can-cost-1-million>.

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