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FISCAL IMPACT REPORT

SPONSOR: Foley DATE TYPED: 10/28/03 HB 6

SHORT TITLE: Sex Offender Registration Requirements SB _____

ANALYST: Maloy

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			See Narrative	Recurring	General Fund/OSF

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 2, HB 3, HB 4, and HB 5.

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
		See Narrative	Recurring	OSF

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Responses Received From
 Administrative Offices of the Courts (AOC)
 Attorney General’s Office (AGO)
 Public Defender Department (PD)
 Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 6 proposes to:

1. include “aggravated indecent exposure” and “enticement of a child” in the definition of “sex crime”;
2. require a sex offender provide motor vehicle registration information for all vehicles the offender owns;

3. require a sex offender to provide a DNA sample for inclusion in the DNA Identification database at the time of registering with the county sheriff, and require the sheriff to collect a \$100 DNA fee to be paid to the Department of Public Safety's DNA Identification System Fund;
4. require a homeless or transient sex offender to register in every county in which the offender resides, even temporarily;
5. require a sex offender to send written notice to the county sheriff when the offender is employed, begins vocational training or is enrolled as a student at an institute of higher education, including notice of change in work or school status;
6. require a sex offender to renew his registration with the county sheriff every 90 days for the entirety of the offender's life;
7. require the Department of Public Safety to retain registration information for the entirety of the offender's life when the offender is convicted of:
 - criminal sexual penetration in the first, second or third degree,
 - criminal sexual contact with a minor in the third or fourth degree,
 - sexual exploitation of children,
 - kidnapping, when the victim is less than eighteen years of age and the offender is not a parent, and
 - criminal sexual contact in the fourth degree;
8. require the Department of Public Safety to retain registration information for a period of twenty years when the offender is convicted of:
 - criminal sexual penetration in the fourth degree,
 - sexual exploitation of children by prostitution,
 - false imprisonment, when the victim is less than eighteen years of age and the offender is not a parent,
 - aggravated indecent exposure,
 - enticement of a child,
 - solicitation to commit criminal sexual contact of a minor, and
 - any *attempted* crime outlined under paragraph 7 immediately above.
9. require the DNA Identification System Oversight Committee and the DNA administrative center to adopt rules necessary to carry out the DNA provisions of the Sex Offender Registration and Notification Act; and
10. establish procedures and criteria by which DNA information may be released.

FISCAL IMPLICATIONS

There is no appropriation in HB 6. Based on the administrative implications discussed below, there are fiscal implications for state and local agencies. The bill also includes a DNA fee of \$100 to be collected by local sheriff offices and paid to the DNA Identification System Fund.

ADMINISTRATIVE IMPLICATIONS

1. HB 6 may result in a need for additional public defenders and district attorneys.

2. Because of the expanded sex crime definition and heightened penalties, more cases will likely go to trial, instead of being “pled-out”. This will impact the courts’ already full dockets.
3. County Sheriff offices will see an increased workload in being required to collect and transfer DNA and undertake 90-day registration renewals. The Department of Public Safety will see a slight increase in workload for collecting and maintaining DNA and registration information provided by sheriffs.

TECHNICAL ISSUES

1. In essence, this bill functions to eliminates release from parole or probation.
2. It is not clear whether the payment of the \$100 registration fee is a one-time payment, or if it is to be assessed for each subsequent 90-day registration renewal.
3. According to the Attorney General’s Office, defining “enticement of a child” as a “sex crime” will likely be challenged because it is possible to entice a child in a non-sexual manner.
4. According to the Administrative Offices of the Courts, the bill amends the definition of “sex offender” to remove the requirement that those individuals covered by the Sex Offender Registration and Notification Act be 18 or older, thus requiring juveniles to be treated as adults.
5. According to the Public Defenders Department, the registration of convicted sex offenders with the state has been held not to be an ex post facto law, where the statute was intended as a non-punitive civil means of protecting the public and adverse effects to offenders did not render the statute effectively punitive. *Smith v. Doe*, 538 U.S. 84 (2003). There would likely be a challenge that this statute’s adverse effects to offenders would render it punitive.

OTHER SUBSTANTIVE ISSUES

Such legislation is typically challenged on the basis of Constitutionality.

SM/yr