

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

LS 6655
BILL NUMBER: SB 325

NOTE PREPARED: Feb 4, 2025
BILL AMENDED:

SUBJECT: Burglary and Robbery of a Gun Retailer.

FIRST AUTHOR: Sen. Freeman
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill increases the penalty for burglary and robbery if the offense is committed on the premises of a firearm retail establishment. It also makes conforming amendments.

Effective Date: July 1, 2025.

Explanation of State Expenditures: *Summary* - This bill could increase the Department of Correction (DOC) population between 41 to 123 in FY 2026. As a result, this would increase DOC's operating costs between \$193,479 to \$580,437 in FY 2026 and each year afterwards.

The number of persons who commit robbery or burglary on the premises of a firearm retail establishment under current law is not reported to the Abstracts of Judgment or identified in the Odyssey Case Management System. It is unknown how many persons have been convicted and sentenced for robbery or burglary of a firearm retail establishment. Therefore, for the purposes of this analysis, OFMA assumes that roughly 5% to 15% of the average number of robbery and burglary convictions per year could have occurred at a firearm retail establishment.

The following table shows the estimated cost and added population to the DOC.

Estimated Added DOC Population and Expenditures for Robbery and Burglary Offenses Committed Against Firearm Retail Establishments				
	FY 2026	FY 2027	FY 2028	FY 2029
Population Range	41 to 123	41 to 123	41 to 123	41 to 123
Estimated Cost - Low	\$193,479	\$193,479	\$193,479	\$193,479
Estimated Cost - High	\$580,437	\$580,437	\$580,437	\$580,437
Note: The added state expenditures are based on the marginal cost of \$4,719 in FY 2024 held constant over these five years.				

The average expenditure to house an adult offender was \$29,432 annually, or \$80.58 daily, in FY 2024. (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 \$4,719 annually, or \$12.93 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 \$113,108, or \$309.67 daily, in FY 2024. The marginal cost for juvenile facilities was \$8,778 annually or \$24.05 daily.

Juvenile: Depending on the discretion of the juvenile courts and the prosecuting attorneys, the impact on state expenditures is expected to be minor. Persons who are committed as juveniles to a juvenile facility generally are confined for a shorter time than those same persons who are committed to an adult facility, but the costs of housing persons in juvenile facilities are higher.

According to the Criminal Justice Institute (CJI), in FY 2023, a total of 198 juvenile cases were direct file to adult court, while 43 juvenile cases were waived to adult court. Based on the CJI report, robbery represents the second most common offense for direct file cases.

Additional Information - Robbery - A person who knowingly or intentionally takes property from another person or from the presence of another person by threatening to use force or put in a state of fear, commits robbery as a Level 5 felony. As proposed, it enhances the penalty for robbery on the premises of a firearm retail establishment from a Level 5 felony to a Level 3 felony. As a result, this population would remain in prison for an additional 2.9 years, including 25% good credit time.

Burglary - A person who breaks and enters the building or structure of another person, with intent to commit a felony or theft in it, commits burglary as a Level 5 felony. As proposed, the bill enhances the penalty for burglary at a firearm retail establishment from a Level 5 felony to a Level 4 felony. For persons convicted and sentenced for burglary at a firearm retail establishment, this population would remain in prison for an additional 2.10 years, including 25% good credit time.

The following table shows the average number of persons convicted and sentenced for robbery or burglary between FY 2013 and FY 2024.

Offense	Felony Level	Average Convictions Per Year	% confined in DOC	% in community supervision	Average Length of Stay
Robbery (IC 35-42-5-1)	Level 5	246	59%	66%	1.30 years
	Level 3	469	84%	69%	4.20 years
	Estimated Additional Length of Sentence		25% more time in DOC		2.90 years
Burglary (IC 35-43-2-1)	Level 5	716	52%	70%	1.10 years
	Level 4	195	72%	69%	3.20 years
	Estimated Additional Length of Sentence		20% more time in DOC		2.10 years

Persons who are convicted and sentenced for robbery as a Level 3 felony or burglary as a Level 4 felony will likely be confined for longer sentences in the DOC than persons who are convicted for robbery or burglary as a Level 5 felony.

State expenditures would increase if an offender is subject to a longer sentence, as shown in the following table.

	Minimum	Advisory	Maximum
Level 3	3 years	9 years	16 years
Level 4	2 years	6 years	12 years
Level 5	1 years	3 years	6 years

According to the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), in Indiana, as of August 2024, there are approximately 1,730 federally licensed dealers, pawnbrokers, manufacturers, and importers of firearms, as well as, manufacturers of ammunition. Federal firearms licensees (FFL) must report to the ATF and local law enforcement agency when a firearm is missing, lost, or stolen within 48 hours of discovery of the loss or theft. In Indiana, between CY 2019 and CY 2023, an average of 40 theft/loss incidents are reported by FFLs per year.

Explanation of State Revenues: Any population increase would occur because of the added length of confinements. Consequently, no new revenues would result from this bill.

Explanation of Local Expenditures: An increase in the pretrial jail population may occur since more defendants who are charged with a higher level felony will be remain in a county jail for a longer period of time before 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.]

Explanation of Local Revenues: See *Explanation of State Revenues*.

State Agencies Affected: Department of Correction.

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

Information Sources: Abstracts of Judgment, Indiana Supreme Court; Department of Correction; U.S. Department of Justice Marshals Service; Bureau of Alcohol, Tobacco, Firearms and Explosives, Federal Firearms Licensee Theft/Loss Report 2019 - 2023, FFL Theft/Loss Firearm Counts by State/Territory, <https://www.atf.gov/resource-center/federal-firearms-licensee-theftloss-report-2023>; Bureau of ATF, Listing of Federal Firearms Licensees, <https://www.atf.gov/firearms/listing-federal-firearms-licensees>; Indiana Criminal Justice Institute, Juveniles Under Adult Court Jurisdiction 2023 Annual Report, <https://www.in.gov/cji/research/files/Juveniles-in-Adult-Court-Final.pdf>.

Fiscal Analyst: Corrin Harvey, 317-234-9438; Abdulrahman Abdulkadri, 317-232-9852.