

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6560
BILL NUMBER: SB 336

NOTE PREPARED: Feb 17, 2022
BILL AMENDED:

SUBJECT: Racketeering and Fraud.

FIRST AUTHOR: Sen. Young M
FIRST SPONSOR: Rep. Young J

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill specifies that "racketeering activity", for purposes of the crime of corrupt business influence, includes certain forgery, fraud, and deception offenses.

Effective Date: July 1, 2022.

Explanation of State Expenditures: Adding these offenses to this list of crimes would allow a person to also be prosecuted for corrupt business influence in addition to either forgery, fraud or deception. The crimes listed in IC 35-45-6-1 are considered predicate crimes, meaning that these crimes are a component of a larger crime. This would likely have a minor increase in DOC's offender population.

Corrupt business influence is a Level 5 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. [The number of persons who have been convicted and sentenced for corrupt business influence has ranged between 15 and 70 between FY 2014 and 2021. About 42% of the persons who have been convicted and sentenced for corrupt business influence were committed to a DOC facility. Their average sentence to be served in DOC was 3.0 years.]

The average expenditure to house an adult offender was \$24,506 annually, or \$67 daily, in FY 2021. (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 \$4,333 annually, or \$11.67 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 \$133,799, or \$366.32 daily, in FY 2021. The marginal

cost for juvenile facilities was \$4,891 annually or \$13.40 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: 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 a Level 5 felony is \$10,000. Criminal fines are deposited in the Common School Fund.

Since felonies are filed in either a circuit or superior court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. In addition, some or all of the following revenue is deposited into the state General Fund: automated record keeping fee (\$20), 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).

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. [About 78% of the persons who were convicted and sentenced for corrupt business influence were confined in a county jail prior to trial.] The average cost per day is approximately \$54 based on the per diem payments reported by U.S. Marshals to house federal prisoners in 16 county jails across Indiana during federal FY 2017.

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 criminal costs 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 the criminal costs fee. Persons found guilty of a felony or misdemeanor 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; Indiana Supreme Court Abstracts of Judgment.

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