

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6947

BILL NUMBER: SB 368

NOTE PREPARED: Feb 22, 2021

BILL AMENDED: Feb 22, 2021

SUBJECT: Juvenile Justice.

FIRST AUTHOR: Sen. Tallian

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 X FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It provides for the automatic expungement of certain juvenile offenses.
- B. It prohibits a juvenile arrestee who meets certain requirements from being housed with adult inmates prior to trial, with certain exceptions.
- C. It establishes a procedure for determining juvenile competency.
- D. It makes conforming amendments.

Effective Date: (Amended) July 1, 2021; July 1, 2022.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Juvenile Arrestees* – The language adding “sight or sound contact with adult inmates” will ensure that Indiana continues to qualify for federal funding under Title II of the Juvenile Justice and Delinquency Prevention Act. According to the Indiana Criminal Justice Institute (CJI), Indiana receives an average of \$1 M in Title II funding each year. CJI notes that not being in compliance with the JJDP A could result in the loss of three dedicated--and federally funded--staff (Juvenile Justice specialist, Compliance Monitor, and Racial and Ethnic Disparities Coordinator).

Explanation of Local Expenditures: *Automatic Expungement* – This provision would apply to juveniles

who were adjudicated as being delinquent for committing a misdemeanor. Courts should be able to implement this with existing resources since no court hearings would be involved.

(Revised) *Competency Hearings* – This provision, which would take effect on July 1, 2022, would apply to children who the court has reasonable grounds to believe are not competent to be tried as delinquents. While there is no age limit for determining competency, OFMA uses a cutoff age of younger than 14 years as a proxy for the number of children in juvenile delinquency court who might be ordered to have a competency hearing. Based on this assumption, there could be 1,940 competency hearings that would need to be held. [This estimate is based on 2019 data reported by the Indiana Supreme Court and the 10 counties that use Quest Case Management System to manage their juvenile caseload. These 10 counties comprise 55% of all statewide juvenile delinquency filings in CY 2019.]

Unless the child is represented by counsel and waives the competency evaluation, the court would be required to order the child in question to undergo a competency evaluation. The evaluation would be performed by either a psychiatrist or a psychologist who is endorsed by the Indiana State Board of Examiners. Since the court would be required to appoint the psychiatrist or psychologist, OFMA assumes that the court would be required to pay for these examinations. In addition, a party can request the appointment of an additional person to conduct an evaluation. [Generally, forensic psychologists are paid between \$200 and \$300 per hour, while psychiatrists charge between \$250 and \$400 per hour.]

(Revised) *Juvenile Arrestees* – The impact on counties housing juveniles in adult court jurisdiction will vary. [Of the 36 counties that reported to have juveniles who were in the jurisdiction of adult court in CY 2020, 16 had one juvenile.]

The bill will also restrict the length of time a juvenile defendant may be detained in an adult jail while awaiting trial, sentencing, or other legal processes. If these juvenile defendants are placed in a county juvenile detention facility prior to trial instead of a county jail, the pretrial population could shift slightly from county jails to juvenile detention facilities.

In most cases, juvenile offenders are separated from the adult population and held in an administrative cell. The placement of juvenile offenders is evaluated every seven days by classifications and by a medical professional to determine the mental and physical health status of the offender. After a juvenile offender turns 18, while being held in county jail, they are typically placed with the adult population for the remainder of their stay. The type of housing unit or accommodation provided for youth incarcerated as adults in county jails is unknown.

The Criminal Justice Institute reports that during CY 2020, 157 juveniles were under the jurisdiction of adult court in 36 counties for either a direct file (when the juvenile court has no jurisdiction) and waiver to adult court. Thirty of these counties had 5 or fewer juveniles, while Marion County had 48, St. Joseph had 20, Lake had 10, Allen had 9, Elkhart had 7, and Cass had 6.

Of the 138 cases that were in direct file, 12 were dismissed, one was found not guilty, 25 were found guilty and 99 are pending.

Explanation of Local Revenues:

State Agencies Affected: Department of Child Services; Department of Correction.

Local Agencies Affected: Trial courts with juvenile jurisdiction; prosecuting attorneys; county sheriffs

Information Sources: Department of Correction Offender Information System; Indiana Supreme Court Abstracts of Judgment; Quest Case Management System; Criminal Justice Institute *Juveniles under Adult Court Jurisdiction Annual Report 2020*; Criminal Justice Institute

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