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LB 507

Revision: 02

Updated to reflect amendments adopted through April 1, 2010.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2009-10		FY 2010-11	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	100,000		0	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	100,000		0	

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill as amended would change provisions and penalties regarding domestic assault in the third degree. The penalty for certain acts of child abuse is increased from a Class III to a Class II felony.

The bill as amended creates a time-limited, state-only program for coverage of prenatal services. The bill provides for an exception to sanctions imposed upon women who do not comply with child support enforcement requirements and who are victims or potential victims of domestic violence. A pregnant woman with incomes at or below 185% of the federal poverty level may request a review of her case by the chief executive officer of the Department of Health and Human Services. At his or her discretion, coverage of prenatal services may be covered with state general funds. This provision terminates on June 30, 2011. The number of women who will access these funds is unknown. It is estimated that 100 women or less would receive services under this provision. The estimated cost per person is \$1,000. The General Fund impact is \$100,000 in FY 10. Any unused funds will be carried over into FY 11.

The provisions of this amended bill could impact state and local criminal justice resources (courts, law enforcement, prosecutors, public defenders, probation, jails, prisons, etc.). It is unknown how many individuals would violate the provisions of this bill, and therefore, it will have an indeterminate impact on criminal justice expenditures. Additionally, any fines assessed pursuant to convictions will accrue to the county where the violation occurs to be used for the support of public schools.

The Department of Correctional Services (DCS) states that the impact of this bill is not determinable. Their response follows:

LB507, as amended, changes language relating to domestic assault, and child abuse, and also includes language relating to review of eligibility due to domestic violence for certain prenatal services. The Department of Correctional Services has no information regarding AM2474 and 2477, and is providing information relating to LB507 (domestic assault) and am2457 (child abuse) only.

1. Current language specifies that domestic assault in the 3rd degree (a Class I Misdemeanor) occurs when the individual intentionally and knowingly causes bodily injury to his intimate partner. The bill adds the words 'or recklessly', and also changes language to specify 'threatens an intimate partner in a menacing manner'.
2. The penalties stay the same for Domestic Assault in the 3rd degree, 2nd degree (Class IIIA felony), and 1st degree (Class III felony) also stay the same for subsequent offenses (increased by one class when 2nd or subsequent offense) but the 12 year limitation within which a second offense is charged is removed (i.e. now no time limit to be charged with subsequent offense); and the language specifying that the offense is against the same intimate partner is removed (i.e. subsequent offense can be charged when it occurs against a different intimate partner.).

DCS had 54 admissions for Domestic Assault in FY07, 80 admissions in FY08, and 37 admissions in FY09 year to date. Of these 171 admissions, 114 were for first violation 3rd degree domestic assault. Approximately 40 of the total 171 admissions over the last 2.5 years have been for subsequent violations.

The impact of the changes in this bill relating to domestic assault is not determinable, since it is unknown how many individuals would be charged with a subsequent offense when it is either a different domestic partner or is outside the 12 year timeframe, or how changing the language for domestic assault in the 3rd degree might affect the charge or sentence for that offense.

LB507 as amended also includes the provisions of LB984. These provisions increase the penalty for child abuse when the offense is committed knowingly and intentionally and results in serious bodily injury. The bill changes the penalty from a Class III felony (Maximum of 20 years, minimum of 1 year) to a Class II felony (Maximum of 50 years, minimum of 1 year)

DCS had six admissions in CY2008 and one admission in CY2009 where the sentence was for child abuse, Class III felony. The sentencing ranged from 3-5 years (1 individual) to 4-6 years (1); 4-7 years (1); 6-10 years (1); 12-16 years (1); 18-20 years (1); and 10-10 years (1). Only one of the admissions was for the maximum time. There are currently four individuals out of 16 incarcerated for this offense with a maximum sentence of 20 years. The lowest maximum time is 5 years (2 individuals).

While increasing the maximum penalty is likely to result in longer sentences, in at least some cases, the specific impact is not determinable.

DCS current inmate population is 4,484 (3/30/2010). The FY09 per diem (cost per day of feeding, clothing, housing, medical, etc) for an individual inmate was \$5,580/yr.