

**FISCAL ESTIMATE**

DOA-2048 N(R10/98)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

**Subject Relating to prisoners throwing or expelling certain bodily substances at or toward others, testing for the presence of communicable diseases in certain criminal defendants and juveniles alleged to be delinquent or in need of protection and services and providing a penalty.**

**Fiscal Effect**

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget  Yes  No

- Increase Existing Appropriation       Increase Existing Revenues  
 Decrease Existing Appropriation       Decrease Existing Revenues  
 Create New Appropriation

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive       Mandatory  
2.  Decrease Costs  
 Permissive       Mandatory

3.  Increase Revenues  
 Permissive       Mandatory  
4.  Decrease Revenues  
 Permissive       Mandatory

5. Types of Local Governmental Units Affected:  
 Towns       Villages       Cities  
 Counties       Others \_\_\_\_\_  
 School Districts       WTCS Districts

**Fund Sources Affected**

- GPR    FED    PRO    PRS    SEG    SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate**

(1) Assault by Prisoners: Under current law, there is a prohibition relating to assaults by a prisoner against another prisoner or an officer, employe or visitor of the prison or facility in apprehension of an immediate battery that is likely to cause death or great bodily harm. This bill creates a new Class E felony offense relating to the throwing of bodily fluids by prisoners with the intent either to cause bodily harm or to abuse, harass, offend, intimidate or frighten.

In the past year, there were over 100 reported assaults involving body fluids in adult and juvenile institutions. For illustrative purposes only, in order to calculate the potential fiscal effect for the Department, it might be assumed that twenty-five percent of the assaults would be successfully prosecuted. Further, if these prosecutions resulted in convictions, and each offender received an additional sentence of one year, the state could incur a cost of \$45 to \$55 per day per offender, or \$16,500 to \$20,000 per year per offender, for a total of \$412,500 to \$500,000 per year. These figures are based on the estimated costs to contract for beds since the prison system is severely overcrowded.

With respect to juvenile offenders, the adult court system would have original jurisdiction, and if sentenced to a year in the adult system, the cost would be the same as for adults. If there was a reverse waiver and the matter was handled in juvenile court, there could be increased cost to the counties if the court imposed an additional sentence.

(2) Testing for Presence of Communicable Diseases: Under current law, a person may be required to undergo testing to detect the presence of human immunodeficiency virus (HIV) and sexually transmitted diseases, if the person meets certain defined criteria involving sex offenses, and following prescribed legal steps. This bill allows a court to order a person to undergo tests for the presence of communicable diseases if the person is a prisoner who has been charged with, convicted of or found not guilty by reason of mental disease or defect of assaulting another prisoner or an officer, employe or visitor of the prison or facility by throwing or expelling blood, semen, urine or feces, etc. The communicable diseases for which tests may be ordered under the bill include HIV, sexually transmitted diseases, hepatitis B and hepatitis C.

In response to an order of the court, the Department's health services staff would draw the blood sample. This would involve some time and materials. The State Laboratory of Hygiene provides testing services at no charge to the department. It is believed that the passage of this testing requirement section of the bill would not have a significant fiscal effect on the Department in terms of the medical costs.

Local Government Costs: Statistics are not available for local jails, and the Department is unable to provide an estimate of possible local costs.

**Long-Range Fiscal Implications**

Agency/Prepared by: (Name & Phone No.)  
 Barbara Carlson 266-9340  
 Department of Corrections

Authorized Signature/Telephone No.  
  
 Robert Margolies 266-2931

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