

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6441
BILL NUMBER: SB 101

NOTE PREPARED: Jan 2, 2014
BILL AMENDED:

SUBJECT: Agricultural Operations and Criminal Trespass.

FIRST AUTHOR: Sen. Holdman
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Trespass Real Property:* This bill expands the criminal trespass statute by making it a crime to knowingly or intentionally enter the real property of another person without the person's consent.

Prohibited Acts List: The bill allows an agricultural operation to conspicuously post a notice at the agricultural operation's locations that lists prohibited acts that may compromise the agricultural operation's trade secrets or operations. It provides that a person who knowingly or intentionally commits an act at an agricultural operation that is prohibited and listed on such a notice commits a Level 6 felony.

Trespass Agricultural Operations: The bill expands criminal trespass to include certain acts involving agricultural operations. It raises the penalty for criminal trespass if certain levels of pecuniary loss result from the criminal trespass.

Effective Date: July 1, 2014.

Explanation of State Expenditures: *Trespass Real Property:* The bill would expand criminal trespassing to include entering real property. Currently, criminal trespassing is entering a dwelling of another person without the person's consent. The bill could increase the number of trespassing crimes. Trespassing is generally a Class A misdemeanor.

Prohibited Acts List: The bill would allow an agricultural operation to conspicuously post a notice at the business's locations that lists prohibited acts that may compromise the operation's trade secrets or operations. A person who commits an act on the list commits a Level 6 felony. It is unknown how many additional cases might occur.

Trespass Agricultural Operations: The bill expands criminal trespassing to include acts entering an agricultural operation and knowingly or intentionally causing a pecuniary loss to the operations. The offense is a Class A misdemeanor if the loss is \$50 or less, a Level 6 felony if the loss is more than \$750 and less than \$50,000, and the penalty increases to a Level 5 felony if the loss is \$50,000 or more.

Penalty Information: A Level 5 felony is punishable by a prison term ranging from 1 to 6 years, and a Level 6 felony is punishable by a prison term ranging from 6 months to 30 months or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,386 in FY 2013. (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 \$3,266 annually, or \$8.95 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$77,489 in FY 2013.

Explanation of State Revenues: *Penalty Information:* 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 or 6 felony is \$10,000 and \$5,000 for a Class A misdemeanor. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county 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. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the automated record keeping fee (\$7), judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$2) are deposited into the state General Fund.

Explanation of Local Expenditures: *Penalty Information:* If more defendants are detained in county jails prior to their court hearings on the Level 5 or 6 felony, local expenditures for jail operations may increase. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Information:* 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 (\$2), 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: Indiana Sheriffs' Association, Department of Correction.

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