

**BILL SUMMARY**  
2<sup>nd</sup> Session of the 59<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB3992</b>
<b>Version:</b>	<b>INT</b>
<b>Request Number:</b>	<b>8440</b>
<b>Author:</b>	<b>Fetgatter</b>
<b>Date:</b>	<b>2/28/2024</b>
<b>Impact:</b>	<b>Average per conviction cost: \$144,496.15</b>
	<b>Max Cost Aggregate: \$650,377,182.24</b>

**Research Analysis**

HB 3992 creates Knights Law. The measure requires persons convicted of rape in the first degree, child sexual abuse, lewd or indecent proposals to a child, child pornography or aggravated child pornography, child prostitution, or human trafficking of a minor for commercial sex to serve 100 % of any sentence imposed. The measure provides that a persons convicted of human trafficking of a person under the age of 18 for the purpose of commercial sex, child sexual abuse, procuring a minor for child pornography or possession of child pornography, child prostitution, or rape in the first be punishable by life in prison without the possibility of parole. The measure creates a rebuttable presumption that no condition of release would assure the safety of the community if the state shows by clear and convincing evidence that the person, at the time of the offense, was a registered sex offender and was arrested for a sex crime. The measure prohibits the application of earned credits for inmates serving sentence for rape in the first degree, child sexual abuse, child pornography or aggravated child pornography, child prostitution, or human trafficking.

Prepared By: Brad Wolgamott

**Fiscal Analysis**

HB3992 would require that persons sentenced for various child sex crimes serve 100% of a Life or Life Without Parole (LWOP) sentence. In consultation with officials from the Department of Corrections (DOC), the cost analysis of this measure is as follows:

Those with the statutory citation highlighted in red are the sentence types that seem to be growing. Over the last 10 years' worth of prison receptions, inmates sentenced to one or more of these crime types have tripled. Reception for the crimes in HB3992 over the last 10 years is found in the following table:

Statute	Sentence Description	Number of Receptions in Fiscal Year										Total
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
21-1021.2	Procure/Produce/Dist/Poss Juv Pornography	7	11	15	22	34	21	24	32	40	60	266
21-1021.3	Parent Consent To Juvenile Pornography	0	0	0	0	0	2	0	0	0	1	3
21-1024.1	Child Pornography	0	2	1	2	9	6	8	7	10	20	65
21-1024.2	Child Pornography	0	0	1	0	0	0	0	2	1	4	8
21-1030	Child Prostitution	0	0	0	0	1	0	0	1	0	1	3
21-1040.12a	Agg Poss Child Porn	9	6	12	8	17	15	18	13	29	30	157
21-1111	Rape Defined	0	0	0	0	1	0	0	1	0	1	3
21-1114(A)	Rape First Degree	2	0	1	0	2	2	1	1	8	18	35
21-1115	Rape - First Degree	44	32	44	50	62	65	49	70	79	66	561
21-1123(A)	Lewd Or Indecent Proposals/Acts To Child	54	53	56	60	112	142	96	135	195	215	1118
21-748	Human Trafficking	0	0	0	2	5	7	1	0	1	7	23
21-843.5(E)	Child Sexual Abuse	45	39	33	51	46	57	61	51	69	56	508
21-843.5(F)	Child Sexual Abuse - Child Under 12	1	0	0	0	0	0	0	0	0	2	3
<b>Number of Receptions</b>		<b>138</b>	<b>122</b>	<b>131</b>	<b>163</b>	<b>240</b>	<b>270</b>	<b>219</b>	<b>258</b>	<b>361</b>	<b>412</b>	<b>2314</b>

Notes:

Lowest Num of Reception

Highest Num of Reception

Unique Number of Receptions in Fiscal Year:

Inmates who have two different statutes will be counted twice.

Inmates who have more than one sentence but all under the same statute will be counted once.

Per current sentencing guidelines, the number of individuals who are sentenced to Life/LWOP for these crimes has not varied greatly. Passage of HB3992 will increase that number (specifically, the number of Life/LWOP sentences in these cases is expected to increase to the total amount of sentences for each crime in HB3992). Sentencing data for individuals sentenced to Life/LWOP for these crimes over the last 10 years is found in the following table:

Statute	Sentence Description	Number of Receptions in Fiscal Year (Life/LWOP)										Total
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
21-1024.1	Child Pornography	0	1	0	0	0	0	0	0	0	0	1
21-1040.12a	Agg Poss Child Porn	2	0	1	0	0	0	0	2	1	6	
21-1114(A)	Rape First Degree	0	0	0	0	1	0	0	0	0	2	3
21-1115	Rape - First Degree	10	3	9	4	8	3	9	7	5	8	66
21-1123(A)	Lewd Or Indecent Proposals/Acts To Chi	4	3	3	2	5	4	6	3	7	6	43
21-843.5(E)	Child Sexual Abuse	5	8	6	7	6	6	8	2	3	6	57
<b>Number of Receptions</b>		<b>19</b>	<b>14</b>	<b>17</b>	<b>12</b>	<b>19</b>	<b>12</b>	<b>20</b>	<b>10</b>	<b>15</b>	<b>22</b>	<b>160</b>

Notes:

This table includes all Life/LWOP sentences from cases where an HB3992 crime was the controlling offense.

Lowest Num of Reception

Highest Num of Reception

Number of Receptions in Fiscal Year

Inmates who have two different statutes will be counted twice.

Inmates who have more than one sentences but all under the same statute will be counted once.

Of the 2314 Total Inmates Received for these crimes, there are 160 inmates serving Life/LWOP. With the passage of HB3992, all 2314 inmates received in the last 10 years would have been sentenced to, and serve 100% of, a Life/LWOP sentence.

The previous 3 years (FY21-FY23) have seen an increase in the number of releases for the crimes in HB3992. This is likely proportionate to reception growth, but is low overall compared to receptions over the same timeframe. Release data for these crimes over the past 10 years is found in the following table:

Statute	Sentence Description	Number of Releases in Fiscal Year										Total
		2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	
21-1021.2	Procure/Produce/Dist/Poss Juv Pornography	1	0	0	0	0	0	0	1	0	2	4
21-1024.1	Child Pornography	0	0	0	0	0	0	1	0	1	1	3
21-1040.12a	Agg Poss Child Porn	0	0	0	1	0	0	0	0	0	1	2
21-1111	Rape Defined	0	1	0	0	0	0	0	0	0	0	1
21-1114(A)	Rape First Degree	0	0	0	0	0	0	2	2	0	1	5
21-1115	Rape - First Degree	3	2	1	3	3	3	2	5	3	13	38
21-1123(A)	Lewd Or Indecent Proposals/Acts To Child	0	3	5	6	5	3	8	14	12	19	75
21-748	Human Trafficking	0	0	0	0	0	0	1	0	0	0	1
21-843.5(E)	Child Sexual Abuse	0	0	1	0	1	2	2	5	4	4	19
<b>Number of Releases</b>		<b>4</b>	<b>6</b>	<b>7</b>	<b>10</b>	<b>9</b>	<b>8</b>	<b>16</b>	<b>27</b>	<b>20</b>	<b>41</b>	<b>148</b>

Notes:

Lowest Num of Releases
Highest Num of Releases

Current stock incarcerated population and cost data (as of Feb 18, 2024) for those convicted of one or more crimes found in HB3992, including those sentenced to Life/LWOP, is listed in the following table:

Statute	Sentence Description	Number of Inmates	Number of Inmates with Life/LWOP	Average Sent Length (years)	85% of Average Sent Length (years)	Difference from 85% to Life Sentence Parole Eligibility (45 years)
21-1021.2	Procure/Produce/Dist/Poss Juv Pornography	374	5	15.85	13.47	31.53
21-1021.3	Parent Consent To Juvenile Pornography	5	1	13.86	11.78	33.22
21-1024.1	Child Pornography	82	2	14.99	12.74	32.26
21-1024.2	Child Pornography	21	0	13.06	11.1	33.9
21-1030	Child Prostitution	4	1	8.60	7.31	37.69
21-1040.12a	Agg Poss Child Porn	207	12	20.24	17.2	27.8
21-1111	Rape Defined	31	7	57.03	48.47	
21-1114(A)	Rape First Degree	127	16	31.75	26.98	18.02
21-1115	Rape - First Degree	1206	236	46.87	39.83	5.17
21-1123(A)	Lewd Or Indecent Proposals/Acts To Child	1753	95	20.29	17.24	27.76
21-748	Human Trafficking	29	1	12.85	10.92	34.08
21-843.5(E)	Child Sexual Abuse	646	96	24.56	20.87	24.13
21-843.5(F)	Child Sexual Abuse - Child Under 12	16	1	16.68	14.17	30.83

Notes:

INC population as of 2/18/2024

1. Number of Inmates and Number of Inmate with Life/LWOP

Inmates who have two different statutes will be counted twice.

Inmates who have more than one sentence but all under the same statute will be counted once.

2. Avg Sent Length excludes Life/LWOP

3. Avg Sent Length served as of 2/18/2024. Excludes Life/LWOP, and sentences that have not started.

Converting all of the crimes in HB3992 to a mandatory 100% Life/LWOP sentence will likely add to prison growth because inmates with those sentences will not exit the system at the same rate currently established. For each additional year that an inmate is incarcerated, the Annual Cost of Incarceration of \$6,811.85 would apply.

Based on current sentencing data using OS 21-1021.2 as an example, the 31.53 year increase in time served before parole and the \$6,811.85 FY 23 Annual Incremental Cost of Incarceration result in a cost increase of \$214,777.63 for one inmate over the life of this sentence. If 374 inmates were to instead serve Life/LWOP, then the projected aggregate cost increase is \$80,326,833.81 for this particular crime. Applying this same type of calculation to Child Prostitution OS 21-1030 sentences, the 5.17 year increased sentence length results in a cost increase of \$35,217.26 per inmate, or a projected aggregate cost increase of \$42,472,020.99 across all 1206 sentences. By using a weighted average to account for the varying number of inmates and different increased sentence lengths for each crime, the weighted average cost increase per inmate is \$144,496.15 if all sentences modified by HB3992 are converted to mandatory Life/LWOP.

Statute	Sentence	Current Number of Inmates	Increase in Sentence Length (yrs)	Total Cost increase Over Life of Sentence	% of Inmates with sentence
21-1021.2	Procure/Produce/Dist/Poss Juv Pornography	374	31.53	\$80,326,833.81	8.31%
21-1021.3	Parent Consent To Juvenile Pornography	5	33.22	\$1,131,448.29	0.11%
21-1024.1	Child Pornography	82	32.26	\$18,019,523.04	1.82%
21-1024.2	Child Pornography	21	33.9	\$4,849,356.02	0.47%
21-1030	Child Prostitution	4	37.69	\$1,026,954.51	0.09%
21-1040.12a	Agg Poss Child Porn	207	27.8	\$39,199,472.01	4.60%
21-1111	Rape Defined	31	0	\$0.00	0.69%
21-1114(A)	Rape First Degree	127	18.02	\$15,589,191.20	2.82%
21-1115	Rape - First Degree	1206	5.17	\$42,472,020.99	26.79%
21-1123(A)	Lewd Or Indecent Proposals/Acts To Child	1753	27.76	\$331,486,963.87	38.95%
21-748	Human Trafficking	29	34.08	\$6,732,287.59	0.64%
21-843.5(E)	Child Sexual Abuse	646	24.13	\$106,182,981.56	14.35%
21-843.5(F)	Child Sexual Abuse - Child Under 12	16	30.83	\$3,360,149.37	0.36%
				<b>Weighted Average Increase in Sentence Length</b>	21.21 years
				<b>Annual Cost of Incarceration</b>	\$6,811.85
				<b>Total Inmates currently serving time for HB3992 Crimes</b>	4501
				<b>Weighted Average Cost Increase per Inmate</b>	<b>\$144,496.15</b>
				<b>Total Maximum Aggregate Cost</b>	<b>\$650,377,182.24</b>

Therefore, if the 4501 inmates currently serving time for HB3992 crimes were to serve Life/LWOP as opposed to the current average sentence length, there is a total maximum aggregate cost of \$650,377,182.24 for the increased sentence lengths.

Prepared By: Robert Flipping IV, House Fiscal Staff

**Other Considerations**

None.