As Introduced

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H. B. No. 365

Representative Evans

Cosponsors: Representatives Setzer, Stebelton, Strahorn, Zehringer

A B I L L

To amend section 103.14 and to enact section 101.16 of the Revised Code to specify that if a bill provides for a new or increased jail term, prison term, or delinquent child commitment no committee of the General Assembly may report it and neither house of the General Assembly may pass it unless the bill designates one or more funding sources from which the cost of the term or commitment will be paid, to require fiscal analyses prepared by the Legislative Service Commission to include an estimate for each such bill of the cost of the term or commitment, and to require the creation of a task force to establish a state policy to limit future increases in the number of criminal offenders and delinquent children in correctional facilities and Department of Youth Services facilities and provide planning for modifying, expanding, and constructing those facilities necessary to satisfy the projected increased need for them.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 103.14 be amended and section 101.16 of the Revised Code be enacted to read as follows:

Sec. 101.16. (A)(1) As used in this section:

(a) "Criminal prohibition" means a prohibition set forth in a statute that if violated by an adult is a criminal offense or that if violated by a juvenile would be a criminal offense if it had been violated by an adult.

(b) "Jail term, prison term, or delinquent child commitment for a violation" means a jail term or a prison term that is authorized or required as a sanction for a violation of a criminal prohibition or a period of confinement of a delinquent child in the custody of the department of youth services that is authorized or required as a sanction for a violation of such a prohibition.

(2) For purposes of divisions (B) and (C) of this section, a bill "designates the source of the funds from which the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition or the cost of the increase in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition will be paid" by doing one of the following:

(a) Specifying one or more existing appropriations that include sufficient funds from which the cost in question will be paid;

(b) Including a proposed new appropriation from which the cost in question will be paid;

(c) Including a proposed new tax, fee, cost, or other revenue source that will provide the revenue, and a proposed new appropriation from the revenue provided by that source, from which the cost in question will be paid;

(d) Including a combination of two or more of the sources described in divisions (A)(2)(a) to (c) of this section from which the cost in question will be paid.

(B) No committee of either house of the general assembly shall vote out of the committee any bill that establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or that provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition unless the bill designates the source of the funds from which the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition or the cost of the increase in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition will be paid.

For any bill to which this division applies, except as otherwise provided in this division, the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition established in the bill or the cost of the increase provided in the bill in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition shall be determined from the fiscal analysis of the bill prepared by the legislative service commission pursuant to section 103.14 of the Revised Code before the bill is recommended for passage by the particular committee or from any analysis prepared by the office of budget and management that contains an estimate, in dollars, of that cost. If neither the legislative service commission nor the office of budget and management prepares any such analysis, the cost shall be determined from any other relevant and appropriate source.

(C) Neither house of the general assembly shall pass any bill that establishes a new criminal prohibition that has a jail term,

prison term, or delinquent child commitment for a violation of the prohibition or that provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition unless the bill designates the source of the funds from which the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition or the cost of the increase in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition will be paid.

For any bill to which this division applies, except as otherwise provided in this division, the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition established in the bill or the cost of the increase provided in the bill in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition shall be determined from the fiscal analysis of the bill prepared by the legislative service commission pursuant to section 103.14 of the Revised Code before the bill is taken up for final consideration by the particular house of the general assembly or from any analysis prepared by the office of budget and management that contains an estimate, in dollars, of that cost. If neither the legislative service commission nor the office of budget and management prepares any such analysis, the cost shall be determined from any other relevant and appropriate source.

(D) Any action of a committee that votes out of the committee a bill that establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or that provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition is invalid unless division (B) of this section is satisfied regarding the

action and the bill.

Any action of either house of the general assembly that passes a bill that establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or that provides for an increase in the existing jail term, prison term, or delinquent child commitment or prison term for a violation of an existing criminal prohibition is invalid unless division (C) of this section is satisfied regarding the action and the bill.

(E) Any person may bring an action to enforce this section. An action under this section shall be brought within two years after the date of the alleged violation by a committee or house of the general assembly that did not satisfy division (B) or (C) of this section, whichever is applicable. Upon proof of the violation, the action of the committee or house of the general assembly that did not satisfy division (B) or (C) of this section, whichever is applicable, is invalid in accordance with division (D) of this section.

Sec. 103.14. (A) If a bill introduced in the general assembly appears to affect the revenues or expenditures of the state~~,~~ or a county, municipal corporation, township, school district, or other governmental entity of the state, ~~the Ohio legislative budget office of~~ the Ohio legislative service commission shall, before the bill is recommended for passage by the house committee or the senate committee of the general assembly to which the bill was referred and again before the bill is taken up for final consideration by either house of the general assembly, prepare a fiscal analysis of the bill or resolution. The fiscal analysis shall include ~~an~~ all of the following:

(1) An estimate, in dollars, of the amount by which the bill would increase or decrease revenues or expenditures ~~and any;~~

(2) If the bill establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition, an estimate, in dollars, of the cost of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition or the cost of the increase in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition;

(3) Any other information the Ohio legislative ~~budget office~~ service commission considers necessary to explain the fiscal effect of the bill or resolution.

(B) The Ohio legislative ~~budget office~~ service commission shall distribute copies of a fiscal analysis in accordance with either of the following:

(1) For consideration by the senate or house rules committee, or the standing committee to which a bill is referred, two copies to the ~~chairman~~ chairperson together with a copy to each member of the committee;

(2) For final consideration, a copy to each member of the house that is considering the bill.

If the member who introduced the bill or resolution is not a member of the house or rules committee considering the bill, the Ohio legislative ~~budget office~~ service commission shall send ~~him~~ the member a copy.

(C) In preparing a fiscal analysis, the Ohio legislative ~~budget office~~ service commission may request any department, division, institution, board, commission, authority, bureau, or other instrumentality or officer of the state, a county, municipal corporation, township, school district, or other governmental

entity of the state to provide any of the following information:

(1) An estimate, in dollars, of the amount by which the bill or resolution would increase or decrease the revenues or expenditures received or made by the instrumentality, officer, or entity;

(2) If the bill establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition, an estimate, in dollars, of the cost to the instrumentality, officer, or entity of the jail term, prison term, or delinquent child commitment for a violation of the new prohibition or the cost to the instrumentality, officer, or entity of the increase in the existing jail term, prison term, or delinquent child commitment for a violation of the existing criminal prohibition;

(3) Any other information the Ohio legislative ~~budget office~~ service commission considers necessary for it to understand or explain the fiscal effect of the bill.

An instrumentality, officer, or entity shall comply with a request as soon as reasonably possible after it receives the request. The Ohio legislative ~~budget office~~ service commission shall specify the manner of compliance in its request, and if necessary may specify a longer period of time than five days for compliance. The Ohio legislative ~~budget office~~ service commission may consider any information provided under this division in preparing a fiscal analysis.

(D) The failure of the Ohio legislative ~~budget office~~ service commission to prepare a fiscal analysis before a bill or resolution is taken up for consideration by the house or senate committees, or by either or both houses for final consideration

shall not be construed to impair the validity of any bill passed by either or both houses of the general assembly. The failure of the legislative service commission to so prepare a fiscal analysis does not limit or affect the operation of divisions (B) to (E) of section 101.16 of the Revised Code.

(E) For purposes of division (A) of this section, every bill introduced in the general assembly that establishes a new criminal prohibition that has a jail term, prison term, or delinquent child commitment for a violation of the prohibition or that provides for an increase in the existing jail term, prison term, or delinquent child commitment for a violation of an existing criminal prohibition automatically is classified as a bill that affects the revenues or expenditures of the state or a county, municipal corporation, township, school district, or other governmental entity of the state for which fiscal analyses are required under that division.

(F) As used in this section, "criminal prohibition" and "jail term, prison term, or delinquent child commitment for a violation" have the same meanings as in section 101.16 of the Revised Code.

Section 2. That existing section 103.14 of the Revised Code is hereby repealed.

Section 3. Not later than ninety days after the effective date of this section, the Governor and the General Assembly shall create a task force to establish a policy for the state that will limit future increases in the number of criminal offenders incarcerated in prisons and jails and the number of delinquent children committed to the custody of the Department of Youth Services and that will provide planning for the modification, expansion, and construction of prisons, jails, and Department of Youth Services institutions that will be necessary to satisfy the projected increase in the need for such facilities.

The task force shall consist of a reasonable number of members, with the number jointly determined by the Governor, the Speaker and Minority Leader of the House of Representatives, and the President and Minority Leader of the Senate. Two members of the task force shall be members of the House of Representatives appointed by the Speaker and Minority Leader of the House of Representatives and shall not be members of the same political party. Two members of the task force shall be members of the Senate appointed by the President and Minority Leader of the Senate and shall not be members of the same political party. The remaining members of the task force shall be appointed by the Governor, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate. Each of the appointing officials shall appoint one-fifth of the appointed members of the task force. When all members are appointed, the task force promptly shall meet, select a Chairperson and a Vice-Chairperson, and organize its activities. Members of the task force shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the task force.

Not later than one year after the effective date of this section, the task force shall prepare and submit to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor a report that sets forth its findings regarding a policy for the state that will limit future increases in the number of criminal offenders incarcerated in prisons and jails and the number of delinquent children committed to the custody of the Department of Youth Services and that will provide planning for the modification, expansion, and construction of prisons, jails, and Department of Youth Services institutions that will be necessary to satisfy the projected increase in the need for such facilities. The task force

shall cease to exist on the date on which it submits its final report to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Governor.