

As Introduced

**127th General Assembly
Regular Session
2007-2008**

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 1
of the Revised Code to specify that if a bill 2
provides for a new or increased jail term, prison 3
term, or delinquent child commitment no committee 4
of the General Assembly may report it and neither 5
house of the General Assembly may pass it unless 6
the bill designates one or more funding sources 7
from which the cost of the term or commitment will 8
be paid, to require fiscal analyses prepared by 9
the Legislative Service Commission to include an 10
estimate for each such bill of the cost of the 11
term or commitment, and to require the creation of 12
a task force to establish a state policy to limit 13
future increases in the number of criminal 14
offenders and delinquent children in correctional 15
facilities and Department of Youth Services 16
facilities and provide planning for modifying, 17
expanding, and constructing those facilities 18
necessary to satisfy the projected increased need 19
for them. 20

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

Section 1. That section 103.14 be amended and section 101.16 21
of the Revised Code be enacted to read as follows: 22

Sec. 101.16. (A)(1) As used in this section: 23

(a) "Criminal prohibition" means a prohibition set forth in a 24
statute that if violated by an adult is a criminal offense or that 25
if violated by a juvenile would be a criminal offense if it had 26
been violated by an adult. 27

(b) "Jail term, prison term, or delinquent child commitment 28
for a violation" means a jail term or a prison term that is 29
authorized or required as a sanction for a violation of a criminal 30
prohibition or a period of confinement of a delinquent child in 31
the custody of the department of youth services that is authorized 32
or required as a sanction for a violation of such a prohibition. 33

(2) For purposes of divisions (B) and (C) of this section, a 34
bill "designates the source of the funds from which the cost of 35
the jail term, prison term, or delinquent child commitment for a 36
violation of the new prohibition or the cost of the increase in 37
the existing jail term, prison term, or delinquent child 38
commitment for a violation of the existing criminal prohibition 39
will be paid" by doing one of the following: 40

(a) Specifying one or more existing appropriations that 41
include sufficient funds from which the cost in question will be 42
paid; 43

(b) Including a proposed new appropriation from which the 44
cost in question will be paid; 45

(c) Including a proposed new tax, fee, cost, or other revenue 46
source that will provide the revenue, and a proposed new 47
appropriation from the revenue provided by that source, from which 48
the cost in question will be paid; 49

(d) Including a combination of two or more of the sources 50
described in divisions (A)(2)(a) to (c) of this section from which 51
the cost in question will be paid. 52

(B) No committee of either house of the general assembly 53
shall vote out of the committee any bill that establishes a new 54
criminal prohibition that has a jail term, prison term, or 55
delinquent child commitment for a violation of the prohibition or 56
that provides for an increase in the existing jail term, prison 57
term, or delinquent child commitment for a violation of an 58
existing criminal prohibition unless the bill designates the 59
source of the funds from which the cost of the jail term, prison 60
term, or delinquent child commitment for a violation of the new 61
prohibition or the cost of the increase in the existing jail term, 62
prison term, or delinquent child commitment for a violation of the 63
existing criminal prohibition will be paid. 64

For any bill to which this division applies, except as 65
otherwise provided in this division, the cost of the jail term, 66
prison term, or delinquent child commitment for a violation of the 67
new prohibition established in the bill or the cost of the 68
increase provided in the bill in the existing jail term, prison 69
term, or delinquent child commitment for a violation of the 70
existing criminal prohibition shall be determined from the fiscal 71
analysis of the bill prepared by the legislative service 72
commission pursuant to section 103.14 of the Revised Code before 73
the bill is recommended for passage by the particular committee or 74
from any analysis prepared by the office of budget and management 75
that contains an estimate, in dollars, of that cost. If neither 76
the legislative service commission nor the office of budget and 77
management prepares any such analysis, the cost shall be 78
determined from any other relevant and appropriate source. 79

(C) Neither house of the general assembly shall pass any bill 80
that establishes a new criminal prohibition that has a jail term, 81

prison term, or delinquent child commitment for a violation of the 82
prohibition or that provides for an increase in the existing jail 83
term, prison term, or delinquent child commitment for a violation 84
of an existing criminal prohibition unless the bill designates the 85
source of the funds from which the cost of the jail term, prison 86
term, or delinquent child commitment for a violation of the new 87
prohibition or the cost of the increase in the existing jail term, 88
prison term, or delinquent child commitment for a violation of the 89
existing criminal prohibition will be paid. 90

For any bill to which this division applies, except as 91
otherwise provided in this division, the cost of the jail term, 92
prison term, or delinquent child commitment for a violation of the 93
new prohibition established in the bill or the cost of the 94
increase provided in the bill in the existing jail term, prison 95
term, or delinquent child commitment for a violation of the 96
existing criminal prohibition shall be determined from the fiscal 97
analysis of the bill prepared by the legislative service 98
commission pursuant to section 103.14 of the Revised Code before 99
the bill is taken up for final consideration by the particular 100
house of the general assembly or from any analysis prepared by the 101
office of budget and management that contains an estimate, in 102
dollars, of that cost. If neither the legislative service 103
commission nor the office of budget and management prepares any 104
such analysis, the cost shall be determined from any other 105
relevant and appropriate source. 106

(D) Any action of a committee that votes out of the committee 107
a bill that establishes a new criminal prohibition that has a jail 108
term, prison term, or delinquent child commitment for a violation 109
of the prohibition or that provides for an increase in the 110
existing jail term, prison term, or delinquent child commitment 111
for a violation of an existing criminal prohibition is invalid 112
unless division (B) of this section is satisfied regarding the 113

action and the bill. 114

Any action of either house of the general assembly that 115
passes a bill that establishes a new criminal prohibition that has 116
a jail term, prison term, or delinquent child commitment for a 117
violation of the prohibition or that provides for an increase in 118
the existing jail term, prison term, or delinquent child 119
commitment or prison term for a violation of an existing criminal 120
prohibition is invalid unless division (C) of this section is 121
satisfied regarding the action and the bill. 122

(E) Any person may bring an action to enforce this section. 123
An action under this section shall be brought within two years 124
after the date of the alleged violation by a committee or house of 125
the general assembly that did not satisfy division (B) or (C) of 126
this section, whichever is applicable. Upon proof of the 127
violation, the action of the committee or house of the general 128
assembly that did not satisfy division (B) or (C) of this section, 129
whichever is applicable, is invalid in accordance with division 130
(D) of this section. 131

Sec. 103.14. (A) If a bill introduced in the general assembly 132
appears to affect the revenues or expenditures of the state, ~~or~~ a 133
county, municipal corporation, township, school district, or other 134
governmental entity of the state, ~~the Ohio legislative budget~~ 135
~~office of~~ the Ohio legislative service commission shall, before 136
the bill is recommended for passage by the house committee or the 137
senate committee of the general assembly to which the bill was 138
referred and again before the bill is taken up for final 139
consideration by either house of the general assembly, prepare a 140
fiscal analysis of the bill or resolution. The fiscal analysis 141
shall include ~~an~~ all of the following: 142

(1) An estimate, in dollars, of the amount by which the bill 143
would increase or decrease revenues or expenditures ~~and any;~~ 144

(2) If the bill establishes a new criminal prohibition that 145
has a jail term, prison term, or delinquent child commitment for a 146
violation of the prohibition or provides for an increase in the 147
existing jail term, prison term, or delinquent child commitment 148
for a violation of an existing criminal prohibition, an estimate, 149
in dollars, of the cost of the jail term, prison term, or 150
delinquent child commitment for a violation of the new prohibition 151
or the cost of the increase in the existing jail term, prison 152
term, or delinquent child commitment for a violation of the 153
existing criminal prohibition; 154

(3) Any other information the Ohio legislative ~~budget office~~ 155
service commission considers necessary to explain the fiscal 156
effect of the bill or resolution. 157

(B) The Ohio legislative ~~budget office~~ service commission 158
shall distribute copies of a fiscal analysis in accordance with 159
either of the following: 160

(1) For consideration by the senate or house rules committee, 161
or the standing committee to which a bill is referred, two copies 162
to the ~~chairman~~ chairperson together with a copy to each member of 163
the committee; 164

(2) For final consideration, a copy to each member of the 165
house that is considering the bill. 166

If the member who introduced the bill or resolution is not a 167
member of the house or rules committee considering the bill, the 168
Ohio legislative ~~budget office~~ service commission shall send ~~him~~ 169
the member a copy. 170

(C) In preparing a fiscal analysis, the Ohio legislative 171
~~budget office~~ service commission may request any department, 172
division, institution, board, commission, authority, bureau, or 173
other instrumentality or officer of the state, a county, municipal 174
corporation, township, school district, or other governmental 175

entity of the state to provide any of the following information: 176

(1) An estimate, in dollars, of the amount by which the bill 177
or resolution would increase or decrease the revenues or 178
expenditures received or made by the instrumentality, officer, or 179
entity; 180

(2) If the bill establishes a new criminal prohibition that 181
has a jail term, prison term, or delinquent child commitment for a 182
violation of the prohibition or provides for an increase in the 183
existing jail term, prison term, or delinquent child commitment 184
for a violation of an existing criminal prohibition, an estimate, 185
in dollars, of the cost to the instrumentality, officer, or entity 186
of the jail term, prison term, or delinquent child commitment for 187
a violation of the new prohibition or the cost to the 188
instrumentality, officer, or entity of the increase in the 189
existing jail term, prison term, or delinquent child commitment 190
for a violation of the existing criminal prohibition; 191

(3) Any other information the Ohio legislative ~~budget office~~ 192
service commission considers necessary for it to understand or 193
explain the fiscal effect of the bill. 194

An instrumentality, officer, or entity shall comply with a 195
request as soon as reasonably possible after it receives the 196
request. The Ohio legislative ~~budget office~~ service commission 197
shall specify the manner of compliance in its request, and if 198
necessary may specify a longer period of time than five days for 199
compliance. The Ohio legislative ~~budget office~~ service commission 200
may consider any information provided under this division in 201
preparing a fiscal analysis. 202

(D) The failure of the Ohio legislative ~~budget office~~ service 203
commission to prepare a fiscal analysis before a bill or 204
resolution is taken up for consideration by the house or senate 205
committees, or by either or both houses for final consideration 206

shall not be construed to impair the validity of any bill passed 207
by either or both houses of the general assembly. The failure of 208
the legislative service commission to so prepare a fiscal analysis 209
does not limit or affect the operation of divisions (B) to (E) of 210
section 101.16 of the Revised Code. 211

(E) For purposes of division (A) of this section, every bill 212
introduced in the general assembly that establishes a new criminal 213
prohibition that has a jail term, prison term, or delinquent child 214
commitment for a violation of the prohibition or that provides for 215
an increase in the existing jail term, prison term, or delinquent 216
child commitment for a violation of an existing criminal 217
prohibition automatically is classified as a bill that affects the 218
revenues or expenditures of the state or a county, municipal 219
corporation, township, school district, or other governmental 220
entity of the state for which fiscal analyses are required under 221
that division. 222

(F) As used in this section, "criminal prohibition" and "jail 223
term, prison term, or delinquent child commitment for a violation" 224
have the same meanings as in section 101.16 of the Revised Code. 225

Section 2. That existing section 103.14 of the Revised Code 226
is hereby repealed. 227

Section 3. Not later than ninety days after the effective 228
date of this section, the Governor and the General Assembly shall 229
create a task force to establish a policy for the state that will 230
limit future increases in the number of criminal offenders 231
incarcerated in prisons and jails and the number of delinquent 232
children committed to the custody of the Department of Youth 233
Services and that will provide planning for the modification, 234
expansion, and construction of prisons, jails, and Department of 235
Youth Services institutions that will be necessary to satisfy the 236
projected increase in the need for such facilities. 237

The task force shall consist of a reasonable number of 238
members, with the number jointly determined by the Governor, the 239
Speaker and Minority Leader of the House of Representatives, and 240
the President and Minority Leader of the Senate. Two members of 241
the task force shall be members of the House of Representatives 242
appointed by the Speaker and Minority Leader of the House of 243
Representatives and shall not be members of the same political 244
party. Two members of the task force shall be members of the 245
Senate appointed by the President and Minority Leader of the 246
Senate and shall not be members of the same political party. The 247
remaining members of the task force shall be appointed by the 248
Governor, the Speaker of the House of Representatives, the 249
Minority Leader of the House of Representatives, the President of 250
the Senate, and the Minority Leader of the Senate. Each of the 251
appointing officials shall appoint one-fifth of the appointed 252
members of the task force. When all members are appointed, the 253
task force promptly shall meet, select a Chairperson and a 254
Vice-Chairperson, and organize its activities. Members of the task 255
force shall serve without compensation but shall be reimbursed for 256
their actual and necessary expenses incurred in the performance of 257
their official duties as members of the task force. 258

Not later than one year after the effective date of this 259
section, the task force shall prepare and submit to the Speaker 260
and Minority Leader of the House of Representatives, the President 261
and Minority Leader of the Senate, and the Governor a report that 262
sets forth its findings regarding a policy for the state that will 263
limit future increases in the number of criminal offenders 264
incarcerated in prisons and jails and the number of delinquent 265
children committed to the custody of the Department of Youth 266
Services and that will provide planning for the modification, 267
expansion, and construction of prisons, jails, and Department of 268
Youth Services institutions that will be necessary to satisfy the 269
projected increase in the need for such facilities. The task force 270

shall cease to exist on the date on which it submits its final	271
report to the Speaker and Minority Leader of the House of	272
Representatives, the President and Minority Leader of the Senate,	273
and the Governor.	274