



H.B. 365

127th General Assembly
(As Introduced)

Reps. Evans, Setzer, Stebelton, Strahorn, Zehringer

BILL SUMMARY

- Specifies that a bill providing for a new or increased jail term, prison term, or delinquent child commitment may not be reported by a committee of either house of the General Assembly or passed by either house unless the bill designates the funding source from which the cost of the term or commitment will be paid.
- Requires the Legislative Service Commission to include in its fiscal analyses an estimate for the cost of the term or commitment.
- Creates a task force to establish a state policy to limit future increases in the number of criminal offenders in correctional facilities and delinquent children in Department of Youth Services facilities and provide planning for modifying, expanding, and constructing those facilities necessary to satisfy the projected need for them.

CONTENT AND OPERATION

Limitations on bills specifying new or increased jail terms, prison terms, or delinquent child commitments

(R.C. 101.16)

The bill establishes a new requirement for reporting or passing any bill that establishes a new or increased jail term, prison term, or delinquent child commitment (hereafter referred to collectively as "confinement") for violating a new or existing criminal prohibition.¹ The bill also provides that failure to comply

¹ Under the bill, "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

with its requirements makes a committee action reporting a nonconforming bill or a chamber action to pass such a bill invalid and provides that any person may bring an action to enforce the bill's requirements.

Designation of funding source for new or increased confinement terms

Under the bill, any proposed legislation that establishes a new or increased confinement for the violation of a new or existing criminal prohibition must designate the source of the funds from which the cost of the confinement will be paid under that requirement, such proposed legislation must do one of the following to designate the source of the funds from which the cost of the confinement for violating a new or existing criminal prohibition will be paid:

- (1) Specify one or more existing appropriations that include sufficient funds from which the cost in question will be paid;
- (2) Include a proposed new appropriation from which the cost in question will be paid;
- (3) Include 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;
- (4) Include a combination of two or more of the sources described above from which the cost in question will be paid.

Limitations on the General Assembly

The bill prohibits committees of either house of the General Assembly from reporting a bill and prohibits either house from passing a bill that establishes a new or increased confinement for violating a new or existing criminal prohibition unless the bill in question designates the source of the funds from which the cost of the jail term will be paid. The new or increased cost may be determined from the Legislative Service Commission (LSC) fiscal analysis or from any analysis prepared by the Office of Budget and Management (OBM) that contains an estimate of the cost. If neither LSC nor OBM prepares an analysis, the cost must be determined from any other relevant and appropriate source.

custody of the Department of Youth Services that is authorized or required as a sanction for a violation of such a prohibition.

The bill defines "criminal prohibition" as 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.

Enforcement

The bill provides that if a committee of either house of the General Assembly reports, or either house passes, a bill that fails to comply with the requirements described above, such action is invalid. The bill also provides that any person may bring an action to enforce the requirements imposed on the General Assembly by the bill. Such an action must be brought within two years after the date of the alleged violation by a committee or house of the General Assembly. The bill requires that on proof of the violation, the action of the committee or house of the General Assembly that did not satisfy the requirements described above is invalid.

LSC duties

(R.C. 103.14)

Current law requires LSC to prepare a fiscal analysis of a bill before the bill is recommended for passage by a committee and again before the bill is taken up for final consideration by the House of Representatives or Senate. The fiscal analysis must include an estimate, in dollars, of the amount by which the bill would increase or decrease revenues or expenditures and any other information LSC considers necessary to explain the fiscal effect of the bill. When preparing the fiscal analysis, LSC may contact any entity or officer of the state or any local governmental entity to provide an estimate of the amount by which the bill would increase or decrease the revenues or expenditures received or made by the entity and any other information LSC considers necessary for it to understand and explain the fiscal effect of the bill. If LSC fails to prepare a required fiscal analysis, it should not be construed to impair the validity of the bill.

Under the bill, any proposed legislation that establishes a new or increased confinement for a new or existing criminal prohibition must automatically be classified as a bill that has a fiscal effect on a state or local governmental entity for which an LSC fiscal analysis is required by law. Further, the bill requires that LSC prepare a fiscal analysis for any such bill that includes an estimate of the cost of the new or increased confinement. The bill permits LSC to contact any entity or officer of the state or any local governmental entity to obtain an estimate of the cost of such a bill's requirements.

Also, the bill provides that failure of LSC to prepare a fiscal analysis of a bill containing a new or increased confinement does not limit or effect the bill's funding source requirements, prohibitions, and enforcement provisions.

New task force

(Section 3)

The bill requires that not later than 90 days after the bill's effective date, the Governor and the General Assembly shall create a task force to establish a policy for Ohio 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 (DYS). The task force must also provide planning for the modification, expansion, and construction of prisons, jails, and DYS institutions that will be necessary to satisfy the projected increase in the need for such facilities.

The task force must 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 must be members of the House of Representatives appointed by the Speaker and Minority Leader of the House of Representatives and must not be members of the same political party. Two members of the task force must be members of the Senate appointed by the President and Minority Leader of the Senate and must not be members of the same political party. The remaining members of the task force must 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 must appoint one-fifth of the appointed members of the task force.

When all members are appointed, the task force must meet promptly, select a Chairperson and a Vice-Chairperson, and organize its activities. Members of the task force are to serve without compensation but are to 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 the bill, the task force must 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 DYS and that will provide planning for the modification, expansion, and construction of prisons, jails, and DYS institutions that will be necessary to satisfy the projected increase in the need for such facilities.

The bill provides that the task force ceases 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.

HISTORY

ACTION	DATE
Introduced	10-25-07

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