



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 274 of the 128th G.A.

Date: April 22, 2010

Status: As Introduced

Sponsor: Rep. Yates

Local Impact Statement Procedure Required: No — Minimal cost

Contents: Creates an affirmative defense for possessing a hypodermic needle or syringe

State Fiscal Highlights

STATE FUND

FY 2011 – FUTURE YEARS

Indigent Defense Support Fund (Fund 5DY0)

Revenues Potential negligible annual decrease in locally collected state court costs

Expenditures - 0 -

Victims of Crime/Reparations Fund (Fund 4020)

Revenues Potential negligible annual decrease in locally collected state court costs

Expenditures - 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2011 is July 1, 2010 – June 30, 2011.

- **Revenues.** If, as a result of the bill, slightly fewer persons are convicted solely of certain drug possession-related offenses, then there may be, at most, a negligible annual decrease in the amount of locally collected state court costs forwarded for deposit in the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). Herein, negligible means a revenue loss estimated at less than \$1,000 for either state fund per year.

Local Fiscal Highlights

LOCAL GOVERNMENT

FY 2010 – FUTURE YEARS

Counties and Municipalities (criminal justice systems)

Revenues	Potential, likely no more than minimal, annual loss in court costs and fines
Expenditures	Factors potentially increasing and decreasing criminal justice system costs, with likely minimal net annual effect

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- **Revenues.** If, as a result of the bill, slightly fewer persons are convicted solely of certain drug possession-related offenses, then there may be, at most, a minimal annual loss in court cost and fine revenues. Herein, minimal means an annual revenue loss estimated at no more than \$5,000 for any affected county or municipality.
- **Expenditures.** The bill's affirmative defense provision may simultaneously create costs in certain misdemeanor drug possession-related cases by increasing their complexity and generate cost savings in certain other misdemeanor drug possession-related cases by leading to more prompt bargains or the decision to not prosecute. As the number of affected cases in any given local jurisdiction appears likely to be relatively small, the net effect will be minimal. A minimal net effect means that we are uncertain as to whether these potential expenditure increases and decreases will offset one another, but that the net fiscal effect will be minimal. Minimal means an annual expenditure increase or decrease estimated at no more than \$5,000 for any affected county or municipality.

Detailed Fiscal Analysis

Overview

The bill creates an affirmative defense for offenses involving possession or distribution of hypodermic needles or syringes when a person is 18 years of age or older and possesses a needle or syringe for the purpose of having a clean needle to avoid HIV exposure. Under current law, a violation of these drug-related possession prohibitions is generally a misdemeanor. The bill also permits authorized persons to provide hypodermic needles or syringes without a prescription to persons who wish to obtain it for that purpose.

Local fiscal effects

County and municipal criminal justice systems

Expenditures. The bill will in all likelihood not noticeably decrease the number of drug offense-related arrests. However, it may affect the amount of time and effort that is expended in order to dispose of certain misdemeanor drug possession-related cases. In theory, the availability of an affirmative defense may permit defense counsel to argue certain cases more effectively and thus increase the time, effort, and related costs incurred by the local criminal justice system to dispose of those cases. Conversely, the availability of an affirmative defense may lead prosecutors to not prosecute certain cases, or to bargain for a lesser charge and sanction, thus possibly decreasing the time, effort, and related costs incurred by the local criminal justice system to dispose of those cases.

Although uncertain as to whether these potential expenditure increases and decreases will offset one another, it appears that the net fiscal effect would be minimal. A minimal net effect means an annual expenditure increase or decrease estimated at no more than \$5,000 with respect to the annual operating costs of any affected county or municipal criminal justice system.

Revenues. If, as assumed, slightly fewer persons are convicted solely of certain misdemeanor drug possession-related offenses then any affected county or municipality may see a no more than minimal annual reduction in the amount of court cost and fine revenues that might otherwise have been collected. Herein, minimal means an annual revenue loss estimated at no more than \$5,000 for any affected county or municipality.

State fiscal effects

Court cost revenues

To the degree that the bill has any fiscal effect on the state, it will primarily be in terms of the court cost revenues that might otherwise have been collected from certain

misdemeanor offenders and forwarded to the state for deposit in the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

As a result of the bill's affirmative defense provision, there may be a relatively small statewide decrease in the number of persons charged, arrested, and convicted solely of certain misdemeanor drug possession-related offenses than might otherwise have been the case under current law and practice. Assuming this was true, then the potential decrease in the annual amounts that might otherwise have been credited to either state fund is likely to be no more than negligible. Herein, a negligible loss in state revenues means a decrease estimated at less than \$1,000 for either state fund per year.

An offender convicted of any misdemeanor offense other than a nonmoving traffic violation is generally required to pay state court costs totaling \$29. The \$29 misdemeanor amount is divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DYO) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020).