



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

**Bill:** S.B. 49 of the 128th G.A.

**Date:** March 11, 2009

**Status:** As Introduced

**Sponsor:** Sen. Kearney

**Local Impact Statement Procedure Required:** No — Minimal cost

**Contents:** Mandatory firearms penalty

### State Fiscal Highlights

STATE FUND	FY 2010	FY 2011	FUTURE YEARS
<b>General Revenue Fund (GRF)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	- 0 -	- 0 -	Potential minimal annual incarceration cost increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill's mandatory penalty enhancement will in all likelihood lengthen the stay of certain offenders sentenced to state or juvenile correctional institutions from what similarly situated offenders would have served under current law and practice. LSC fiscal staff's preliminary research suggests that these likely extensions of stay will involve a relatively small number of offenders, and any resulting increase in the incarceration or commitment costs of the departments of Rehabilitation and Correction (DRC) and Youth Services (DYS) will be minimal. A "minimal" state cost herein means an estimated increase in expenditures of less than \$100,000 per year.

### Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2010	FY 2011	FUTURE YEARS
<b>Counties (criminal and juvenile justice systems)</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

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

- The bill will not create new cases for county criminal or juvenile justice systems to adjudicate, but may minimally increase the costs to process certain cases if their resolution, because of the mandatory penalty enhancement, requires additional time and effort. A "minimal" local cost herein means an estimated increase in expenditures for any affected jurisdiction of no more than \$5,000 per year.

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## Detailed Fiscal Analysis

### Firearms penalty

For the purposes of this fiscal analysis, the bill most notably:

- Requires imposition of a ten-year prison term upon a person who discharges a firearm while committing an offense and causes injury or death to a child.
- Requires the court to commit a child adjudicated delinquent for the act described in the immediately preceding dot point to the Department of Youth Services for a definite period of not less than one and not more than five years, and to commit the child to the Department for the underlying act.

### Local fiscal effects

#### County criminal and juvenile justice systems

The bill's mandatory penalty enhancement will not create any additional felony or delinquency cases to be processed by county criminal and juvenile justice systems, respectively. It may, however, change the manner in which some criminal/delinquency charges are resolved in the future from how those matters may have otherwise been resolved. One possible manner in which those case-processing dynamics may change is that its resolution may take more time and effort, as the offender tries to avoid the imposition of the mandatory penalty enhancement. Whether the bargaining process between the prosecutor, defense attorney, and court will become more or less complicated is, however, uncertain. That said, if one could quantify the additional time and effort that might be expended on certain cases, the cost appears unlikely to exceed minimal for any affected county criminal or juvenile justice system. A "minimal" local cost herein means an estimated increase in expenditures for any affected jurisdiction of no more than \$5,000 per year.

### State fiscal effects

#### Incarceration and commitment costs

LSC fiscal staff's preliminary conversations with Department of Rehabilitation and Correction (DRC) and Department of Youth Services (DYS) staff suggest the following generalizations are true. First, the bill's mandatory penalty enhancement is not likely to result in additional offenders being sentenced to a DRC or DYS facility. Second, certain offenders will be sentenced for a longer term than might otherwise have been the case under current law and sentencing practices. The effect of extending lengths of stay, assuming all other conditions remain the same, will be to increase the size of the respective DRC and DYS daily institutional populations. However, the magnitude of the fiscal effect is expected to be minimal, meaning any increase in the state's incarceration costs is estimated at less than \$100,000 per year.

In most, if not all cases in which an adult shoots a child during the commission of some particular crime, and that child dies or is seriously wounded, the offender will, under current law, receive a lengthy prison sentence typically approaching or exceeding ten years. There will undoubtedly be some cases in which an offender commits the offense as described in the bill, and under current law receives less than ten years in prison. In these cases, the bill would add additional years to the sentence handed down by the court.

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