



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [H.B. 31 of the 130th G.A.](#)

**Date:** October 29, 2013

**Status:** As Introduced

**Sponsor:** Rep. Patmon

**Local Impact Statement Procedure Required:** Yes

**Contents:** Criminally negligent storage of a firearm

### State Fiscal Highlights

- The additional number of offenders sentenced to prison for a first degree felony may be sufficient to increase the Department of Rehabilitation and Correction's incarceration costs by more than \$100,000 annually.
- Violations of the bill's prohibition may generate a minimal annual gain in state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

### Local Fiscal Highlights

- The number of offenders charged, prosecuted, and sanctioned for violating the bill's prohibition could be large enough in certain counties and municipalities that the resulting annual increase in their criminal justice system expenditures will exceed minimal. Any corresponding gain in fine and court cost revenue is unlikely to offset the additional adjudication and sanctioning expenditures.

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## Detailed Fiscal Analysis

### **Criminally negligent storage of a firearm**

The bill prohibits a person from storing or leaving a firearm in a manner or location in the person's residence if the person knows or reasonably should know that a minor is able to gain access to the firearm. Whoever violates this prohibition is guilty of criminally negligent storage of a firearm if a minor gains access to the firearm as a result of the violation, without the lawful permission of the minor's parent, guardian, or custodian. Criminally negligent storage of a firearm is a third degree misdemeanor, but if the minor who gains access to the firearm as a result of the violation and without the lawful permission of the minor's parent, guardian, or custodian uses the firearm to cause personal injury or death, other than in self-defense, the violation is a first degree felony.

The key to determining the fiscal impact of the bill will be to determine the number of new criminal cases likely to be generated. These new cases would most likely stem from a combination of (1) juvenile cases involving firearms, (2) juvenile firearm suicides, and (3) unintentional (accidental) shootings. In these various types of incidents involving the use of a firearm there is a strong probability that the firearm was accessed in the home. Numerous national studies have indicated that a large number of juveniles live in homes with firearms that are stored in an accessible manner. The adult firearm owners, from whose homes the juveniles obtained the firearms in question, would constitute the population of individuals subject to the criminal charges in the bill.

In May 2012, the Department of Youth Services reported they had 229 juveniles under their care and custody that were adjudicated with a firearm specification, meaning a firearm was involved in the underlying criminal offense. Additionally, data from the Centers for Disease Control (CDC) indicates there is an annual average of about 22 juvenile suicides in Ohio involving the use of a firearm. When looking at unintentional or accidental shootings involving juveniles, CDC data reveals there are, on average, about four fatalities each year in Ohio and approximately 86 or so nonfatal shootings. The total number of incidents or cases involving juveniles and the use of firearms, based on the above-noted three categories of violent incidents, would indicate that the bill could create up to several hundred new criminal cases for a violation of the negligent firearm storage prohibition. It is difficult to estimate a precise breakdown of how many would be charged at the misdemeanor level and the felony level.

### **State expenditures**

The bill's new felony prohibition pertaining to negligent firearm storage will likely increase the annual GRF incarceration expenditures of the Department of Rehabilitation and Correction (DRC). Given the potential for several hundred new criminal convictions, many of which may be first degree felonies, the total additional

cost, although difficult to precisely estimate, could be well in excess of the \$100,000 per year.<sup>1</sup>

### **Local expenditures**

It is possible that up to several hundred individuals statewide could be charged each year with a misdemeanor or felony negligent firearm storage offense. As a result, counties and municipalities may experience some increase in their annual criminal justice system expenditures related to investigating, adjudicating, prosecuting, defending (if indigent), and sanctioning offenders. The potential number of new cases may be sufficient in certain local jurisdictions to generate additional criminal justice system expenditures in excess of \$5,000 per year.

### **State and local revenues**

The bill's new prohibition involving negligent firearm storage may lead to a minimal annual gain for the state in the amount of locally collected court cost revenue that would be divided between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).<sup>2</sup> There would also be a corresponding increase in fines and court cost revenue collected and retained by the counties and municipalities with jurisdiction over these matters. The amount of revenue that would likely be gained by counties and municipalities is uncertain, but would not likely be sufficient to offset the cost of adjudicating and sanctioning these additional offenders.

### **Prohibitions and penalties generally**

Under the bill, the penalty for criminally negligent storage of a firearm is a third degree misdemeanor, but if the juvenile who gains access to the firearm causes personal injury or death, the offense becomes a first degree felony. The table below summarizes current law's penalty structure relative to the possible fine and term of incarceration for those two offense levels.

<b>Sentences and Fines for Criminally Negligent Storage of a Firearm</b>		
<b>Offense Level</b>	<b>Possible Fine</b>	<b>Possible Term of Incarceration</b>
3rd Degree Misdemeanor	Up to \$500	Up to 60 day jail term
1st Degree Felony	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years definite prison term

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<sup>1</sup> The average annual incarceration cost per inmate is currently \$22,836. According to DRC's most recent Time Served Report, the average time served for a first degree felony released in calendar year 2011 was 6.3 years.

<sup>2</sup> The court is generally required to impose state court costs totaling \$29 for a misdemeanor and \$60 for a felony. The \$29 misdemeanor amount is divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020.