



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: [Sub. H.B. 349 of the 130th G.A.](#)
(LSC 130 0459-5)

Date: September 29, 2014

Status: In House Judiciary

Sponsor: Rep. Hackett

Local Impact Statement Procedure Required: No

Contents: Mandatory additional prison term for felony offense of violence where victim suffered permanent disabling harm

State Fiscal Highlights

- Future increases in GRF incarceration costs for the Department of Rehabilitation and Correction potentially ranging between \$4.9 million and \$9.8 million annually, as certain offenders sent to prison for a felony offense of violence will likely serve an additional five to ten years for permanently disabling the victim.
- The bill may increase annual expenditures from the Reparations Fund (Fund 4020), as the Attorney General is permitted to award supplemental catastrophic disability compensation of up to \$10,000 per year.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Incarceration expenditures

The bill requires courts to impose an additional prison term of five to ten years if an offender is convicted of, or pleads guilty to: (1) any of more than 30 applicable felony offenses of violence, and (2) a specification that the victim suffered permanent disabling harm as a result of the offense. LSC fiscal staff estimates that the bill will increase the Department of Rehabilitation and Correction's (DRC) GRF incarceration expenditures in the range of \$4.9 million and \$9.8 million annually.

The most recently compiled data on offenders sent to prison in calendar year 2012 indicates that up to about 430 offenders, or 2.1%, out of a total intake population of 20,094, were convicted of a violent offense in which the victim required in-patient hospitalization. It is likely that the majority of these victims recovered from their injuries with no permanent disability. For this analysis we are making the assumption that just 10% of these victims sustained permanent disabling harm.¹ This means that, out of the above 430 offenders, around 43 are assumed to qualify for the additional prison term. If all of these offenders received the minimum of five additional years, the bill adds 215 more bed years (43 x 5 years), which at the current annual incarceration cost of \$22,836 creates \$4.9 million in additional expenditures per year. If, on the other hand, these offenders received the maximum of ten additional years, the bill adds 430 more bed years (43 x 10 years), creating \$9.8 million in additional expenditures per year.

In effect, by extending prison stays beyond what the amount of time served would otherwise have been under current law, the bill triggers a "stacking effect," which refers to the increase in the prison population that occurs as certain offenders currently serving time stay in prison longer while the number of new offenders entering the prison system does not decrease. Typically this "stacking" process stabilizes when the number of offenders who begin serving their additional time is about the same as the number leaving prison after serving their additional time. Making a determination of the point in which the "stacking" process stabilizes is especially difficult in this bill because: (1) so many qualifying offenses of violence, (2) the wide variation in the length of the original sentence for the underlying offense, and (3) the difficulty of teasing out "permanent disabling harm" from available victim injury data. Since most of these offenders are in prison for violent felonies to begin with, the fiscal effect created by the bill will not begin to occur for a number of years following its effective date.

Additionally, there is also a possibility that the presence of the specification created in the bill will be used in the bargaining process to induce the accused to accept plea agreements that reduces potential years served in exchange for a guilty plea. To the

¹ DRC is currently examining the intake files of offenders convicted of offenses in which victims were hospitalized to better estimate how many sustained permanent disabling harm.

extent this occurs, the total number of additional beds stemming from the bill will be reduced.

Reparations Fund

The bill provides that in addition to the \$50,000 maximum Reparations Fund (Fund 4020) award for crime victims, the Attorney General may award additional reparations of up to \$10,000 per year to a claimant if the victim suffers "catastrophic disabling harm" as a result of the injury sustained from the criminal act that gave rise to the claim. If the Attorney General exercises this permissive authority, there will be an increase in annual Fund 4020 expenditures. The magnitude depends on the number of supplemental awards made each year, including the possibility that certain victims may be eligible for annual compensation for a period of years.

Synopsis of Fiscal Effect Changes

The substitute version of the bill (LSC 130 0459-5) permits the Attorney General to award supplemental catastrophic disability compensation of up to \$10,000 per year. These awards will be paid from Fund 4020. The magnitude of any annual increase in Fund 4020 expenditures depends on the number of supplemental awards made each year, including the possibility that certain victims may be eligible for annual compensation for a period of years. The previous As Introduced version of the bill did not contain this provision.