



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

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

Date: November 4, 2014

Status: As Reported by 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

- The bill is likely to trigger a prison population stacking effect that once it peaks at some future point in time may increase the Department of Rehabilitation and Correction's GRF incarceration costs by up to between \$5.7 million and \$11.4 million annually. This is because certain offenders sent to prison for a felony offense of violence will potentially 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. The bill is likely to trigger a prison population stacking effect that once it peaks at some future point in time may increase the Department of Rehabilitation and Correction's GRF incarceration costs by up to between \$5.7 million and \$11.4 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. The Department of Rehabilitation and Correction estimates that around 50 offenders sent to prison each year will likely qualify for the additional prison term.

If in each year all of these offenders received the minimum of five additional years, the bill will add 250 more beds (50 offenders per year × 5 years), which at the current annual incarceration cost of \$22,836 creates potentially up to \$5.7 million in additional expenditures per year. If in each year, all of these offenders received the maximum of ten additional years, the bill will add 500 more beds (50 offenders per year × 10 years), creating \$11.4 million in potential 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 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.

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