



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** [S.B. 324 of the 130th G.A.](#)

**Date:** May 23, 2014

**Status:** As Introduced

**Sponsor:** Sens. Jones and Hughes

**Local Impact Statement Procedure Required:** No

**Contents:** Prosecution of rape or sexual battery cases involving DNA analysis

### State Fiscal Highlights

- The removal of the period of limitation for the prosecution of an offense of rape and sexual battery against a person who is implicated by DNA analysis may produce a few additional convictions that result in the imposition of a prison term, which would minimally increase the state's annual incarceration costs.
- There may be a negligible annual gain in the amount of locally collected state court costs deposited in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0), as, each year, a few additional persons may be convicted of the offense of rape or sexual battery.

### Local Fiscal Highlights

- The removal of the period of limitation for the prosecution of an offense of rape or sexual battery against a person who is implicated by DNA analysis may create a few additional cases for county criminal justice systems to process annually. Any related increase in costs for prosecution, indigent defense, and adjudication are not likely to exceed minimal in a given year, and would, in most cases, be absorbed into the daily cost of doing business.
- A negligible annual gain in local court cost and fine revenues may result from the potential increase in rape or sexual battery convictions.

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## Detailed Fiscal Analysis

The bill extends the statute of limitation for commencing a criminal prosecution of the offense of rape or sexual battery against a person who is implicated by DNA analysis. Under current law, a prosecution for the offense of rape or sexual battery generally is barred unless it is commenced within 20 years after the offense was committed. The bill provides that, in a case in which DNA analysis implicates an identified person in the commission of either of these two offenses, no statute of limitations that otherwise would preclude prosecution of the offense precludes prosecution of the offense until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable period of limitation.

As a result of this change, additional criminal cases could be adjudicated that otherwise may have been barred under current law. The exact number of future cases is uncertain, but not expected to be large, relative to existing caseloads.

**Expenditures.** The bill may increase county criminal justice system costs, in terms of prosecution, defense, and adjudication costs, if additional rape and sexual battery cases are generated. The likely sentencing outcome, if the offender is convicted, is the imposition of a prison term, thus creating additional costs for the Department of Rehabilitation and Correction. The marginal cost of adding one offender to that system is between \$3,000 and \$4,000 annually. Therefore, the total annual cost for DRC to add a few more sex offenders to its institutional population each year will be minimal at most.

Rape is a felony of the first degree, and can carry a definite prison term of 3, 4, 5, 6, 7, 8, 9, or 10 years, or a term of life with or without parole. Sexual battery, depending on the circumstances of the case, is either a felony of the third degree (carrying a definite prison term of 1, 2, 3, 4, or 5 years) or a felony of the second degree (carrying a definite prison term of 2, 3, 4, 5, 6, 7, or 8 years).

**Revenues.** Given the small number of likely additional rape and sexual battery convictions, and the difficulties of collecting financial sanctions from unwilling or indigent offenders, the amount of state and local revenues that might be gained annually will be negligible. Courts are generally required to order an offender convicted of a criminal offense to pay a mix of state and local court costs and fines. A court is permitted to waive their collection if the offender is determined to be indigent. It should also be noted that courts rarely, if ever, impose the maximum permissible fine. For a felony of the first degree, the maximum fine is \$20,000. For a felony of the second degree and third degree the maximum fines are \$15,000 and \$10,000, respectively.

"State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a nonmoving traffic violation, the court is generally required to impose state court costs totaling \$60 for a felony. If collected, that amount is divided as follows: \$30 to the Indigent Defense Support Fund (Fund 5DYO) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020).

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