



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 38 of the 132nd G.A.

Status: As Enacted

Sponsor: Rep. Greenspan

Local Impact Statement Procedure Required: No

Subject: Increase penalty for death of a first responder or military member

State & Local Fiscal Highlights

- A marginal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs may be generated as a result of the possibility of longer prison terms being served by, at most, a few offenders starting roughly 11 years after the bill's effective date.
- The bill could extend the amount of time and effort that county criminal justice systems expend to process certain murder cases. Any work and related costs can likely be absorbed by existing personnel and appropriated resources.

Detailed Fiscal Analysis

The bill expands the offense of aggravated murder: (1) to also include purposely causing the death of a first responder or military member whom the offender knows is a first responder or military member and it is the offender's specific purpose to kill a person in that capacity, and (2) based on purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is such an officer to also apply when the victim is a federal law enforcement officer or a person who previously served in either capacity. The bill also requires a mandatory prison term of three to 11 years for an attempt to commit aggravated murder of the type described in either of the preceding (1) and (2).

County criminal justice systems

The bill will not produce any new criminal cases. The practical effect is that it will function as a penalty enhancement in a rather limited number of murder cases that are processed by county criminal justice systems. In some cases, the possibility of a longer prison sentence may make a defendant more willing to negotiate a plea with the county prosecutor (potentially reducing trial-related expenditures) while in other cases a defendant may fight to avoid a longer prison sentence and be more willing to have their case heard before a judge or jury (potentially increasing expenditures). Although uncertain as to whether these potential expenditure increases and decreases will offset one another, it appears that any net fiscal effect would be minimal at most with respect

to the annual operating costs of any affected county criminal justice system. It is likely that these costs can be absorbed by existing personnel and appropriated resources.

It is also possible that, in some cases, the offense of aggravated murder may already take into account the circumstances addressed by the bill where the offender specifically targeted a person in this class because of their profession. This narrow circumstance would apply to an extremely small number of cases annually. Additionally, proving that an offender specifically targeted a particular victim based on their occupation may be difficult for prosecutors.

Incarceration costs

The Department of Rehabilitation and Correction's (DRC's) most recent time-served data indicates that the average time served: for aggravated murder and murder are around 32 years and 24 years, respectively, and for attempted aggravated murder and attempted murder are around 13 years and 11 years, respectively. Thus, under the bill, a person convicted of aggravated murder rather than murder could end up serving eight more years in prison; a person convicted of attempting to commit aggravated murder rather than attempting to commit murder could end up serving two more years in prison. These extended prison stays are likely to generate only a marginal annual increase in DRC's GRF-funded incarceration costs, starting roughly 11 years after the bill's effective date. This is because, in any given year, there are likely to be only a few offenders affected by the bill's penalty enhancements statewide.