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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 252
136th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 252's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Reps. Click and Bird

Local Impact Statement Procedure Required: No

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Highlights

- The bill may result in a number of new criminal charges due to the bill's modifications to existing law related to the offenses of burglary, aggravated burglary, breaking and entering, and trespass in a habitation when a person is present or likely to be present. Any such increase is expected to be minimal annually.
- To the extent that additional offenders are found guilty, the Department of Rehabilitation and Correction may experience a minimal increase in marginal incarceration expenditures over time.
- Any related costs to adjudicate these cases by local criminal justice systems would likely be offset, at least partially, from revenue in the form of fines, fees, and court costs collected from violators. The state may gain a negligible amount of revenue related to the portion of fines that are remitted to the state for each conviction.

Detailed Analysis

The bill modifies the offenses of burglary, aggravated burglary, breaking and entering, and trespass in a habitation when a person is present or likely to be present. In all four offenses, the bill removes the element that requires the offender to commit the offense by "force, stealth, or deception." The penalties for each offense are unchanged by the bill. However, the removal of this element may make certain charges easier to file or ultimately prosecuted, potentially leading to more convictions. All four offenses are subject to felony level sanctions, which includes possible incarceration in an institution operated by the Department of Rehabilitation and Correction (DRC).

Fiscal effect

Local criminal justice systems

The bill may result in an increase in the number of criminal cases filed annually, since the element of “force, stealth, or deception” will no longer be a factor in the criminal charge. However, based on conversations with the Ohio Prosecuting Attorneys Association, in most of these cases, “force, stealth, and deception” are often provable. As such, the number of new cases generated annually will likely be minimal. Courts of common pleas, the courts with jurisdiction over felonies, may see an uptick in cases, however, more likely is that existing cases may be impacted in the manner that they are adjudicated. It is likely that offenders charged with any of these four possible charges may also have other charges pending related to the incident. As such, the bill is not likely to add significantly to the number of criminal cases or the workload of law enforcement, the courts, prosecutors, and public defenders.

To the extent that additional charges are filed and lead to possible convictions though, there will be a corresponding increase in the amount of fine, fee, and court cost revenue generated for the state and political subdivisions, potentially offsetting any new costs.

Department of Rehabilitation and Correction

The Department of Rehabilitation and Correction (DRC) may experience an increase in related operating and incarceration costs if additional offenders are found guilty of any of these four offenses. In calendar year (CY) 2024, the marginal cost to house an individual inmate was \$13.47 per day, or nearly \$5,000 per year. Marginal costs are based on additional medical and mental health costs as well as food and clothing. It does not include additional security, facility, or administrative costs which have already been factored into the overall operating costs of DRC. For purposes of this fiscal note, using the marginal cost rate seems reasonable to presume.

Table one below displays the most recently available commitment and population data for like periods of time, specifically for the year ending around 2022.¹ The figures shown reflect the most serious offense committed by the offender. In many instances, the offender may have multiple convictions related to the same criminal activity.

Offense (most serious offense resulting in commitment to DRC)	CY 2022 Commitments	Percentage of Total Commitments	January 2023 Population	Percentage of Total Population
Aggravated Burglary	100	0.71%	1,207	2.76%
Burglary (all degree levels)	724	5.14%	2,152	4.92%
Trespass	1	--	1	0.0%

¹ See DRC’s January 2023 Population Report and CY 2022 Commitment Report, which are available on the Department’s website via keyword searches “Institution Census” and “Commitment”: drc.ohio.gov.

Table 1. Comparison of 2022 Commitments and Total Population for Specified Offenses				
Offense (most serious offense resulting in commitment to DRC)	CY 2022 Commitments	Percentage of Total Commitments	January 2023 Population	Percentage of Total Population
Breaking and Entering	140	0.99%	199	0.23%
All Offenses	14,490	100%	43,758	100%

Table 2 shows the possible fines and jail terms for the existing offenses of burglary, aggravated burglary, breaking and entering, and trespass in a habitation when a person is present or likely to be present. According to DRC's most recent time served report for CY 2016, these were the average time served for each offense (likely unaffected by the bill if trends remain consistent): aggravated burglary – 7.76 years, burglary – 3.97 years (F2) and 2.1 years (F3), and breaking and entering – 0.95 years.^{2, 3}

Table 2. Current Law Penalties		
Offense Level	Fine	Term of Incarceration
Aggravated Burglary		
1 st Degree Felony	Up to \$20,000	3, 4, 5, 6, 7, 8, 9, 10, or 11 years indefinite prison term
Burglary		
2 nd Degree Felony	Up to \$15,000	2, 3, 4, 5, 6, 7, or 8 years indefinite prison term
3 rd Degree Felony*	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term
Trespass in a Habitation When a Person is Present or Likely to be Present		
4 th Degree Felony	Up to \$5,000	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months definite prison term
Breaking and Entering		
5 th Degree Felony	Up to \$2,500	6, 7, 8, 9, 10, 11, or 12 months definite prison term

*The higher level felony sanctions pertain to instances when any person other than an accomplice of the offender is present or likely to be present.

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² See DRC's 2016 Time Served Report, which is available on the Department's website via keyword search "2016 Time Served": drc.ohio.gov. This report is the most recently available.

³ The 2016 Time Served Report included no data for the offense of trespass.