



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 57 of the 131st G.A.

**Date:** June 25, 2015

**Status:** As Reported by House Judiciary

**Sponsor:** Rep. Maag

**Local Impact Statement Procedure Required:** Yes

**Contents:** Penalties for aggravated murder

### State Fiscal Highlights

- Beginning about 25 to 30 years after the bill's effective date, the Department of Rehabilitation and Correction's annual incarceration costs may increase as a result of some offenders sentenced to prison for aggravated murder serving additional time before reaching their parole eligibility.

### Local Fiscal Highlights

- The bill will likely result in a greater number of capital murder trials, which can be relatively expensive in terms of court time, jury costs, prosecution and indigent defense, and pre-trial jail expenses to house defendants pending and during their trials. Cost estimates of all facets of capital trials are inexact, but could run into the tens of thousands of dollars.

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## Detailed Fiscal Analysis

### Parole-eligible aggravated murder sentencing

Under current law, persons convicted of aggravated murder may be sentenced to life imprisonment with eligibility for parole after 20, 25, or 30 years. The bill generally retains those penalties and adds to the possible sentences for that offense life imprisonment with parole eligibility after serving 35, 40, 45, 50, or 55 full years of imprisonment.

#### State fiscal effect

Time served data from the Department of Rehabilitation and Correction (DRC) suggests that offenders serving time for aggravated murder who were released in 2013 served an average of about 26 years. Commitment report data from DRC suggests there are around 50 annual admissions with life terms for aggravated murder that have parole eligibility. If these offenders served additional years before reaching their parole eligibility, irrespective of when the Parole Board would actually grant release, we would begin to see a "stacking effect" beginning about 25 to 30 years into the future whereby inmates who would leave prison under current law sentencing practices will remain in prison as a result of the bill. It is difficult to calculate a precise stacking effect because the life terms for aggravated murder have staggered minimum parole eligibility thresholds, and we know that the Parole Board typically does not grant release on an inmate's first parole hearing. Additionally, due to the length of sentences affected by the bill, some inmates may die before reaching the parole eligibility threshold of their sentence.

In general, life expectancy for those in prison is not as high as that for the general population. It seems reasonable to estimate that as inmates serve sentences that reach the higher end of the sentencing spectrum, 45 or 55 years before parole eligibility, most inmates will not live this long in prison, especially given the average age of current commitments, for all offenses, is 32. These new life sentence options in the bill may contribute to the overall "stacking effect" such that inmates not eligible for parole for 55 years will remain in prison well past the 20, 25, or 30 year eligibility thresholds in current law.

#### Local fiscal effect

The life sentence aggravated murder provisions are not likely to have much fiscal effect on local criminal justice systems. The bill does not affect the number of new murder cases in any jurisdiction, nor will it affect the rates of conviction. It is also not clear how the longer sentences will affect the decision of defendants charged with aggravated murder to enter a plea or go to trial. These defendants currently face long prison sentences and most accept plea offers. The prospect of longer minimum sentences is not likely to change this decision calculus.

## **Death penalty**

The bill creates a new aggravating circumstance in the commission of aggravated murder such that the offense was committed purposely, and with prior calculation and design. Under current law, aggravated murder committed with only these conditions is not included in the list of aggravating circumstances required for the death penalty to be applicable. This provision will enable prosecutors to charge more aggravated murders as capital offenses.

### **Local fiscal effect**

The bill will likely result in a greater number of capital murder trials, which can be relatively expensive in terms of court time, jury costs, prosecution and indigent defense, and pre-trial jail expenses to house defendants pending and during their trials. Capital trials also have two phases with the penalty phase following a conviction. The penalty phase often has expert witnesses that testify as to the mental state, intelligence, and psychological profile of the defendant. Expert witnesses are also relatively expensive and are used by both prosecution and defense.

There is no clear cost figure or price tag for a capital trial, but it is safe to estimate that just one such trial could easily reach into the tens of thousands of dollars, including appellate costs. Although a county may be reimbursed for around 40% of indigent defense related expenses, the county will experience potentially significant cost increases related to capital murder trials as prosecutors may bring forth more aggravated murder charges with the new aggravating circumstance allowing for the death penalty.