



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 171 of the 131st G.A.

**Date:** October 1, 2015

**Status:** As Passed by the House

**Sponsor:** Reps. Blessing and Dever

**Local Impact Statement Procedure Required:** No

**Contents:** Minimum amounts of heroin necessary to classify an offender as a major drug offender

### State Fiscal Highlights

- A very small number of offenders will serve longer prison terms, and, starting roughly five years after the bill's effective date, result in a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs.

### Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

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## Detailed Fiscal Analysis

The bill decreases the minimum quantity of heroin involved in a violation of "trafficking in heroin" or "possession of heroin" that would make the violation a first degree felony and that is necessary to classify an offender as a major drug offender.

### State fiscal effects

The bill is likely to increase the number of offenders being convicted of a first degree felony as a "major drug offender" and sentenced to a mandatory maximum prison term of 11 years. These are offenders who, under current law, would have been convicted of a first degree felony but not as a "major drug offender" and sentenced to a definite prison term of three to 11 years.

Time served data from the Department of Rehabilitation and Correction (DRC) shows that for inmates released between calendar years (CYs) 2009 and 2013 the average time served for first degree felony drug offenses was 4.7 years. This means that an offender sentenced under the bill will serve, on average, an additional 6.3 years (11-year mandatory prison term minus average time served of 4.7 years).

The effect on DRC's annual incarceration costs will be a function of the number of prison-bound offenders that would otherwise have been convicted of a first degree felony for heroin trafficking or possession under current law that will instead be convicted as a major drug offender under the bill. According to data from DRC, of the more than 1,300 offenders incarcerated for a heroin-related offense between CYs 2010 and 2014, only about 0.2%, or three offenders per year, possessed the appropriate quantity, as specified in the bill, to qualify as a major drug offender subject to the mandatory 11-year prison term.

The principal fiscal effect of extending prison stays beyond the amount of time that would otherwise have been served under current law will be in terms of a prison population stacking effect. This 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 system does not decrease. This stacking process will stabilize when the number of offenders who begin serving their additional time as part of the mandatory maximum of 11 years in the bill is about the same as the number leaving prison after serving their additional time. It will start roughly five years after the bill's effective date and stabilize another six years later. This means the full fiscal effect of the bill's penalty change on the prison population and related annual incarceration costs will not occur until 11 years after its effective date, at which time the bill will add around 18 or 19 additional bed years (6.3 additional years x 3 offenders each year).

Relative to the size of the state's prison population (approximately 51,000) and the number of offenders sentenced to prison annually (around 20,000), the number of offenders affected by this bill is relatively small and the associated incarceration costs minimal. The marginal cost for DRC to incarcerate a few additional offenders is estimated at \$3,600 per year per offender.

### **Local fiscal effects**

The bill will not create any new felony cases involving trafficking in or possession of heroin, but will affect cases in the future where some drug offenders could face the possibility of a longer term in prison than might otherwise have been the case under current law and practice. There will likely be no discernible fiscal effect on any given county criminal justice system to process and resolve such cases.