



# OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

---

## Fiscal Note & Local Impact Statement

**Bill:** H.B. 96 of the 132nd G.A.  
(L\_132\_0085-1)

**Status:** In House Criminal Justice

**Sponsor:** Rep. Hughes

**Local Impact Statement Procedure Required:** No

**Subject:** Sexual imposition and disorderly conduct penalties

---

### State & Local Fiscal Highlights

- The bill will have no direct fiscal effect on the state.
- The bill's penalty enhancements may lengthen the jail term served by a few specified offenders. Any resulting increase in county and municipal criminal justice system incarceration expenditures is likely to be minimal at most annually.
- A minimal annual gain in locally retained fine revenue becomes possible as the bill increases the penalty for disorderly conduct, under certain circumstances, from a minor misdemeanor to a misdemeanor of the fourth degree.

### Detailed Fiscal Analysis

Under the bill, the penalties for sexual imposition and disorderly conduct will elevate under circumstances when the offender has three or more prior convictions. These penalty enhancements will affect a relatively small number of misdemeanor cases, with minimal changes in the annual revenues and expenditures of local criminal justice systems.

#### Expenditures

The bill enhances the penalty for sexual imposition when the offender has three or more previous convictions of sexual imposition or another specified sexual offense. Currently, the maximum penalty for sexual imposition is a first degree misdemeanor punishable by a jail term of not more than 180 days. Notwithstanding the ordinarily prescribed range of jail terms, the bill permits a court to impose a jail term of not more than one year for qualifying cases; thus, certain offenders convicted of sexual imposition may end up serving a longer term in jail than otherwise might have been the case under current law and sentencing practices.

The number of offenders charged with sexual imposition in any given county or municipal criminal justice system is relatively small in the context of the system's total caseload, and of those offenders, an even smaller subset would meet the specified

circumstances triggering the bill's penalty enhancement. This suggests that the number of criminal cases that will be affected by the bill's penalty enhancement will be very small.

The bill also elevates the penalty for disorderly conduct involving public intoxication from a minor misdemeanor, not subject to jail time, to a fourth degree misdemeanor, punishable by a jail term of up to 30 days, if the offender has been convicted of the offense three or more times.

The average cost per inmate for a full-service jail is estimated at between \$60 and \$70 per day. The marginal cost of occasionally incarcerating an offender for a longer period of time would be much smaller. This suggests that increasing the jail term for a relatively small number of offenders in any given year will result in a no more than minimal increase in county and municipal criminal justice system expenditures.

## **Revenues**

Charging data available from the Franklin County Municipal Court indicates that for calendar year 2016, there were a total of 1,152 charges filed with the court under the offense of disorderly conduct. However, under the restricted circumstance established by the bill, a considerably smaller number of charges would elevate from a minor misdemeanor to a fourth degree misdemeanor.

As result of this elevation, maximum fine amounts are increased by \$100, from \$150 to \$250. However, courts rarely impose the maximum permissible fine. It is also the case that collecting court costs, fees, and fines from offenders can be problematic, as many are financially unable or unwilling to pay. Although it is uncertain whether this charging trend in Franklin County closely mirrors that of other counties, and despite the issue of "collectability," presumably some counties and municipalities could gain a minimal amount of locally retained fine revenue.

## **Synopsis of Fiscal Effect Changes**

From a fiscal perspective, the most notable differences between the As Introduced version of the bill and its accepted substitute version (L\_132\_0085-1) can be summarized as follows:

- Under the As Introduced version of the bill, sexual imposition was an unclassified misdemeanor with a jail term up to one year when the offender has had three or more convictions of sexual imposition or another specified sex offense. The substitute version retains the maximum penalty for sexual imposition as provided by current law, a first degree misdemeanor, but increases the possible jail time a court may impose from up to 180 days to up to one year. The effect on local incarceration expenditures will be no more than minimal annually under both versions of the bill.

- The bill's As Introduced version specified that sexual imposition offenders subject to the bill's penalty enhancement must serve a jail term consecutively to any other term imposed. This provision is not included in the substitute version.
- The As Introduced version eliminates a provision that states that a person cannot be convicted of sexual imposition based solely on the victim's testimony, absent other evidence. Removal of the provision was expected to lead to a small increase in sexual imposition convictions. The substitute version retains existing law.
- The substitute version increases the penalty for disorderly conduct involving public intoxication from a minor misdemeanor to a fourth degree misdemeanor if the offender has previously been convicted of the offense three or more times. As a result of this penalty enhancement, counties and municipalities may gain a minimal amount of locally retained fine revenue. This provision is not included in the As Introduced version.