



Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 270 of the 131st G.A.

Date: May 25, 2016

Status: As Reported by House Judiciary

Sponsor: Reps. Dever and Pelanda

Local Impact Statement Procedure Required: No

Contents: Involuntary manslaughter by providing controlled substances

State Fiscal Highlights

- The bill may result in a relatively small number of additional offenders being sentenced to prison for involuntary manslaughter each year, the average time served for which is currently 9.1 years. The increase in the Department of Rehabilitation and Correction's annual GRF-funded incarceration costs is likely to be minimal, but could reach up to several hundred thousand dollars because of the related prison population stacking effect.

Local Fiscal Highlights

- The bill is unlikely to generate any significant increase in the annual operating expenses of county criminal justice systems, as it is unlikely to create many new felony cases to process and adjudicate.

Detailed Fiscal Analysis

The bill clarifies that a person can be charged with involuntary manslaughter if that person provided a controlled substance that causes or contributes to the death of another person. The bill also makes this a strict liability offense, which means that the mental culpability or intent to commit such an offense does not have to be proven.

Under current law, when a person dies from drug use and the seller of those drugs can be identified and proximately linked to that death, the state may already prosecute for the offense of involuntary manslaughter, which under these circumstances would likely be a felony of the first degree.¹

¹ A felony of the first degree carries a definite prison term of 3 to 11 years plus an additional 1 to 10 years for certain circumstances.

According to the Ohio Prosecuting Attorneys Association and the drug unit of the Franklin County Prosecutor's Office, although it is true that under current law a person can be prosecuted for involuntary manslaughter when drugs they provide are involved in an overdose and fatality, such prosecutions are rare. It is very difficult to prove where a controlled substance came from and establish a clear chain of evidence to the fatality. This becomes even more complicated if the victim used several controlled substances from several sources. The strict liability portion of the bill helps, but it does not solve the evidence problems. By clarifying the charging option as a strict liability offense, there may be a few more involuntary manslaughter prosecutions and convictions. Any additional costs for a county criminal justice system to prosecute, defend (if the offender is indigent), and adjudicate a relatively small annual increase in homicide-related cases generally will be minimal.

The bill may result in: (1) offenders being sentenced to prison for a longer term than otherwise might have been the case under current law and sentencing practices, and (2) additional offenders being prosecuted, convicted, and sentenced to prison. The number of offenders so sentenced will be relatively small, especially in the context of a prison system currently housing 50,000-plus inmates.

Data from the Department of Rehabilitation and Correction (DRC) indicates that the average time served for felony involuntary manslaughter of the first degree is 9.1 years. At a current annual marginal cost figure of about \$3,600, the estimated cost for the time served by one additional offender will be \$32,760 (9.1 years x \$3,600). The increase in the DRC's annual GRF-funded incarceration costs is likely to be minimal, but could reach up to several hundred thousand dollars because of the related prison population stacking effect.