



OHIO LEGISLATIVE SERVICE COMMISSION

Jessica Murphy

Fiscal Note & Local Impact Statement

Bill: H.B. 561 of the 132nd G.A.

Status: As Reported by House Criminal Justice

Sponsor: Reps. Boggs and Lanese

Local Impact Statement Procedure Required: No

Subject: Elimination of spousal exception for certain sex offenses

State Fiscal Highlights

- The elimination of the spousal exceptions for certain sex offenses may produce a few additional felony convictions that result in the imposition of a prison term, which would minimally increase the state's annual incarceration costs.
- There may be a negligible annual gain in the amount of locally collected state court costs deposited in the state treasury to the credit of the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).

Local Fiscal Highlights

- The bill may create a few additional sex offense cases for county and municipal criminal justice systems to process annually. Any related increase in costs for adjudication, prosecution, indigent defense, and sanctioning are not likely to exceed minimal in a given year and would be absorbed into the daily cost of doing business. The annual gain in court cost, fee, and fine revenue will be negligible.

Detailed Fiscal Analysis

The bill eliminates the spousal exceptions for the offenses of rape, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, sexual imposition, and importuning. The bill also expands the proceedings in which a person may testify against the person's spouse to include prosecutions for any of the sex offenses modified by the bill.

The bill may generate a relatively small increase in the number of cases in which a person is charged with, and subsequently convicted of, certain sex offenses. Anecdotal evidence suggests that, depending on the facts of the case, it can be difficult for a prosecutor to secure a conviction without corroborating evidence. Therefore, prosecutors may have to negotiate a conviction on a lesser charge, or forego prosecution altogether if the burden of proof cannot be met. Presumably, the bill makes the prosecution of such cases less problematic, and the defense in these matters more problematic.

The bill may minimally increase county and municipal criminal justice system costs (adjudication, prosecution, defense, and sanctioning) to process sex offense cases affected by the elimination of the spousal exceptions. It is likely that those systems can absorb such costs utilizing existing personnel and appropriated resources.

The sentencing outcome in the case of a felony sex offense may be the imposition of a prison term, thus creating additional costs for the Department of Rehabilitation and Correction (DRC). The marginal cost of adding one offender to that system is around \$3,500 annually. Therefore, the total annual cost for DRC to add a few more sex offenders to its institutional population each year will be minimal at most.

Any increase in criminal cases and subsequent convictions as a result of the bill may lead to a gain in related state and local revenues. The state revenues would be in the form of locally collected state court costs, in the amount of \$29 for a misdemeanor and \$60 for a felony. Those amounts are apportioned between the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). Counties and municipalities may gain revenues in the form of local court costs, fees, and fines. The amount of money that either the state or local governments may gain annually is likely to be negligible, as the number of affected cases is likely to be relatively small, and the difficulties of collecting financial sanctions from unwilling or indigent offenders.