



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 187
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 187's Bill Analysis](#)

Version: As Introduced

Primary Sponsor: Sen. Schaffer

Local Impact Statement Procedure Required: No

Jessica Murphy, Budget Analyst

Highlights

- There may be a no more than minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration costs that can be absorbed by utilizing existing staff and resources.
- The state may realize a negligible annual gain in court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).
- Local criminal justice systems will encounter relatively few of the circumstances specified in the bill and can be expected to absorb any related costs utilizing existing staff and resources. There may be an occasional annual gain in court costs, fees, and fines imposed on offenders by the sentencing court and credited to the county treasury.
- Any additional costs the Liquor Control Commission incurs for revoking D liquor permits will be minimal since imposition of the bill's administrative penalty is expected to occur infrequently with any revocations being immediate, without the adjudication process before the Commission. In addition, the Department of Commerce's Division of Liquor Control could see some negligible revenue losses from permits that are revoked under the bill.

Detailed Analysis

The bill expands the offense of endangering children to prohibit a sexually suggestive performance, specifically in the context of a performance that occurs at a D liquor permit premises (such as a bar or restaurant) and adds an administrative penalty of revocation of the offender's D liquor permit.

Endangering children prohibition

Under current law, the prohibitions under the offense of endangering children include any material or performance that is obscene, sexually oriented, or nudity-oriented. The bill expands the offense to prohibit a sexually suggestive performance. A violation of that prohibition under current law, unchanged by the bill, is a felony of the second degree. For a felony of the second degree, the penalty includes:

- A presumption for prison;
- An indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a felony of the second degree (2, 3, 4, 5, 6, 7, or 8 years), and a maximum term set by statute and based on the minimum selected;
- A potential fine of up to \$15,000.

LBO's research with regard to the bill indicates that (1) it addresses a fairly specific fact pattern that does not, and likely will not, arise very often, and (2) its inclusion of "contemporary community standards" in the prohibition's language may make enforcement problematic. This suggests local criminal justice systems statewide will encounter relatively few of the circumstances specified in the bill that lead to an investigation, prosecution, adjudication, and sanctioning. Local criminal justice systems generally should be able to absorb any related costs utilizing existing staff and resources.

Subsequent to a conviction, the court generally imposes court costs and fees, and a fine to be paid by the offender, which, if collected, are credited to the county treasury. Given the number of cases for which the bill's additional circumstance for a violation might apply will be relatively few, the amount of additional court cost and fee and fine revenues that counties may actually collect annually will be minimal at most.

Based on the Department of Rehabilitation and Correction's (DRC) FY 2019 commitment report, around 50 offenders were sentenced to prison for a second degree felony offense of endangering children. Historically, the average time served for this offense is roughly five years.

Relative to the size of the state's prison population (approximately 49,000) and the number of offenders sentenced to prison annually (ranging between 17,000 and 20,000), the number of additional offenders that could be sentenced to prison will be relatively small and the associated incarceration costs minimal. The average marginal cost for DRC to incarcerate a few additional offenders is \$3,000 to \$4,000 per offender per year.

A few additional convictions may generate a negligible annual amount of state court cost revenue that is collected locally and forwarded to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020). The state costs total \$60 for a felony. The \$60 felony amount is divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020. However, it is important to note that collecting financial sanctions from certain offenders can be problematic, especially in light of the fact that many are unable or unwilling to pay.

D liquor permit revocations

If an individual is a D liquor permit holder and violates the bill's expanded endangering children prohibition, the Liquor Control Commission is required to revoke that individual's

permit if so ordered by a court. Because the revocation is ordered by the court, the standard adjudication hearing process before the Commission would presumably not occur. However, any additional costs the Commission incurs for revoking D liquor permits would be minimal since there are likely to be few such situations, and paid from the State Liquor Regulatory Fund (Fund 5LP0). Finally, the Department of Commerce's Division of Liquor Control could see some negligible revenue losses from permits that are revoked under the bill. Any such permit revenue is credited to the Undivided Liquor Permit Fund (Fund 7066).