



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: S.B. 201 of the 132nd G.A.

Status: As Introduced

Sponsor: Sens. Bacon and O'Brien

Local Impact Statement Procedure Required: No

Subject: Indefinite prison terms

State & Local Fiscal Highlights

- The Department of Rehabilitation and Correction expects the net effect of the bill's Felony Sentencing Law modifications may be a slight increase in the overall population, and that any concomitant increase in institution-related expenditures would be no more than minimal annually.
- County criminal justice systems will incur minimal at most one-time costs to ensure that important stakeholders (common pleas courts, prosecutors, public defenders, and so forth) are adequately educated and trained in the bill's Felony Sentencing Law modifications.

Detailed Fiscal Analysis

Indefinite prison terms

The bill modifies the Felony Sentencing Law by providing for indefinite prison terms for offenders who are sentenced to prison for a first or second degree felony, or for a specified category of third degree felony, committed on or after its effective date. The indefinite terms will consist of a minimum term selected by the sentencing judge from a range of terms authorized for the degree of the offense and a maximum term set by statute based on the selected minimum.

The bill specifies that each offender serving an indefinite prison term will have a presumptive release date, which is at the end of the offender's minimum term. The bill further provides for a possible reduction of the minimum term by the Department of Rehabilitation and Correction (DRC) under specified circumstances in which the offender exhibits exemplary institutional conduct and possible rebuttal by DRC of the release presumption and continued confinement of the offender up to the maximum term if the offender has exhibited violent behavior in prison.

The bill will likely create some degree of a stacking effect, in which certain offenders with institutional violations who would otherwise be released sooner under current law will be held for a longer period in accordance with the new maximum term of imprisonment. The institutional population pressures that may be created by the

longer sentences under the bill will likely be lessened to some extent by the provisions in the bill establishing a presumed release date at the end of the minimum term. Offenders released at this minimum term may serve less time than they would have under current law involving definite terms. Additionally, the provision in the bill generally allowing DRC to reduce an offender's minimum term for exceptional conduct by 5% to 15% will provide even more flexibility to manage the overall prison population.

As of October 2017, the prison population managed by DRC totaled 50,187. A precise calculation of the net effect of these Felony Sentencing Law modifications on the size of that population is difficult to calculate because of the unknowns. For example, the stated minimum terms that will be selected by the sentencing judges statewide for offenders convicted of a first or second degree felony, or a specified category of third degree felony is unknown. Additionally, the behavior of these offenders while incarcerated is difficult to predict. Depending upon that behavior, an offender could earn a reduction of their minimum term or be kept in prison up to the maximum term. The likely result is that, relative to current law, time served for some offenders will be lower while for other offenders time served will be higher. DRC expects the net effect may be a slight increase in the overall population, and any concomitant increase in institution-related expenditures would be no more than minimal annually.

Subsequent to the bill's enactment, county criminal justice systems will need to expend time and effort to ensure that important stakeholders (common pleas courts, prosecutors, public defenders, and so forth) are adequately educated and trained in these Felony Sentencing Law modifications. The related one-time cost generally will be minimal.