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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 456
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 456's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsor: Rep. Boggs

Local Impact Statement Procedure Required: No

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Highlights

- The bill's removal of fentanyl drug testing strips from the offense of "illegal use or possession of drug paraphernalia" has the potential to create a minimal cost savings to county and municipal criminal justice systems.

Detailed Analysis

The bill provides that the offense of "illegal use or possession of drug paraphernalia" does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound. Under current law, the penalty for a violation of this offense is a fourth degree misdemeanor, punishable by a jail term of not more than 30 days, a fine up to \$250, or both.

According to the Ohio Prosecuting Attorneys Association, although the above offense as it relates to drug testing strips for testing fentanyl or a fentanyl-related compound is currently prohibited behavior, it is likely that under current law individuals are being arrested and charged with "illegal use or possession of drug paraphernalia" in combination with possession of other types of paraphernalia or other offenses, such as trafficking. To the degree that criminal charges are being pursued solely for the possession of drug testing strips that are being utilized to determine the presence of fentanyl or a fentanyl-related compound, the bill has the potential to create a minimal cost savings to local criminal justice systems, including courts, prosecutors, public defenders, law enforcement agencies, and detention/supervision facilities. Likewise, any fines, fees, and court cost revenue that are associated with these types of offenses would also be forgone, the net fiscal impact being effectively neutral.

According to the Ohio Department of Health's (ODH) 2020 Ohio Unintentional Drug Overdose Deaths Data report, the percentage of unintentional drug overdose deaths involving fentanyl has continued to increase over the years. From 2019 to 2020, the number of fentanyl-related overdose deaths has increased nearly 32%, increasing from 3,070 in 2019 to 4,041 in 2020. Since 2011, 2020 had the highest number of unintentional drug overdose deaths (5,017 deaths) with the second highest year being 2017 (4,854). In 2020, fentanyl was involved in 81% of all unintentional drug overdose deaths.¹

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¹ See page 4 of ODH's [2020 Ohio Drug Overdose Data: General Findings \(PDF\)](#), which is available on ODH's website, under Injury Surveillance and Data: odh.ohio.gov/.