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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Office

H.B. 111
135th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 111's Bill Analysis](#)

Version: As Reported by Senate Judiciary

Primary Sponsors: Reps. LaRe and K. Miller

Local Impact Statement Procedure Required: No

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Highlights

- The bill will result in a relatively small increase in the number of offenders being sentenced to prison for a third degree domestic violence offense, and potentially lengthen the period of incarceration for some offenders. The marginal cost for the Department of Rehabilitation and Correction to add a relatively small number of offenders to its total inmate population is estimated at around \$5,000 per offender per year.
- The bill will affect how certain offenders are sanctioned, but is unlikely to generate any new discernible ongoing costs for county criminal justice systems.

Detailed Analysis

The bill increases the sentencing range for third degree felony domestic violence and creates a presumption in favor of a prison term for such an offense.

Under current law, domestic violence is charged as a third degree felony when the offender has more than one previous conviction of domestic violence or substantially similar municipal ordinance. Generally, for third degree felonies, the sentencing court may impose either a prison term or community control – there is no presumption for either under current sentencing guidelines. The bill increases the sentencing range for third degree felony domestic violence and creates a presumption in favor of a prison term.

The bill also increases the minimal mandatory prison term for a third degree domestic violence offense that is required (1) when the offender knew the victim was pregnant, and (2) when the offender knew the victim was pregnant and caused serious physical harm to the unborn or caused the termination of the pregnancy.

The table below summarizes the sentencing for third degree domestic violence offense under current law and the bill. As mentioned, the current sentencing range for such an offense,

where the victim is not pregnant, is the general range (“low-tier”) for third degree felonies, and the bill increases that range. This longer sentence range (“high-tier”) already applies to certain third degree felony offenses of aggravated vehicular homicides and assaults, sexual battery, GSI (gross sexual imposition), sex with a minor, and robbery or burglary with two or more separate aggravated or nonaggravated robberies or burglaries.

Third Degree Felony Domestic Violence Sentencing				
Victim Specification	Current Law		Proposed by H.B. 111	
	Sentencing Guidance	Prison Term	Sentencing Guidance	Prison Term
No	Either a prison term or community control	Definite term of 9, 12, 18, 24, 30, or 36 months	Presumption in favor of a prison term	Definite term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months
Pregnant woman	Mandatory prison term	Either a definite term of 6 months or a definite term of 9, 12, 18, 24, 30, or 36 months	Mandatory prison term	Either a definite term of 12 months or a definite term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months
Pregnant woman and serious physical harm caused	Mandatory prison term	Either a definite term of one year or a definite term of 9, 12, 18, 24, 30, or 36 months	Mandatory prison term	Either a definite term of 18 months or a definite term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months

County criminal justice systems

The bill will not generate any new domestic violence cases for county criminal justice systems to process, but will likely alter the manner in which a relatively small number of offenders convicted of a third degree felony domestic offense are sanctioned each year. There should, however, be no discernible ongoing effect on the annual operating costs of any given county’s criminal justice system.

These cases are a small subset of total domestic violence cases which are generally misdemeanor cases. Based on conversations with the Ohio Prosecuting Attorneys Association, excluding the large urban counties, most county criminal justice systems process fewer than ten of these cases per year. Anecdotal evidence suggests that because the offense involves more than one repeat violation, the sentencing court typically imposes a prison term.

Ohio Department of Rehabilitation and Correction

According to commitment data from the Department of Rehabilitation and Correction (DRC), between calendar years 2018 and 2022, 220 offenders, on average, were incarcerated

each year for the offense of third degree felony domestic violence. DRC's most recent time-served report for calendar year 2016 indicates that the average time served for this offense was roughly two years (or 24 months, which is in the middle of the range of terms that currently may be imposed).

In the context of a prison system with approximately 45,500 inmates and the 200 or so offenders annually committed to prison for third degree felony domestic violence, the likely increase in the number of commitments as a result of the bill's presumption for prison will be relatively small. It is also possible that some offenders will be sentenced to prison for a longer stay under the increased sentencing ranges than otherwise might have occurred under current law. The marginal cost for DRC to add a relatively small number of offenders to its total inmate population is estimated at around \$5,000 per offender per year. This suggests that any increase in DRC's GRF-funded incarceration costs is likely to be no more than minimal annually.