



# Ohio Legislative Service Commission

*Joseph Rogers*

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 6 of the 131st G.A. (LSC 131 0622-2)      **Date:** March 16, 2015  
**Status:** In House Judiciary      **Sponsor:** Reps. LaTourette and Kunze

**Local Impact Statement Procedure Required:** No

**Contents:** Prosecution of rape or sexual battery cases involving DNA analyses and declares an emergency

### State Fiscal Highlights

- The extension of the statute of limitations for the prosecution of an offense of rape or sexual battery against a person who is implicated by DNA analysis may produce a few additional 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), as, each year, a few additional persons may be convicted of the offense of rape or sexual battery.

### Local Fiscal Highlights

- The extension of the statute of limitations for the prosecution of an offense of rape or sexual battery against a person who is implicated by DNA analysis may create a few additional cases for county criminal justice systems to process annually. Any related increase in costs for prosecution, indigent defense, and adjudication are not likely to exceed minimal in a given year, and would, in most cases, be absorbed into the daily cost of doing business.
- A negligible annual gain in local court cost and fine revenues may result from the potential increase in rape or sexual battery convictions.

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## Detailed Fiscal Analysis

The bill extends the statute of limitations for commencing a criminal prosecution of the offense of rape or sexual battery against a person who is implicated by DNA analysis. Under current law, a prosecution for the offense of rape or sexual battery generally is barred unless it is commenced within 20 years after the offense was committed. The bill provides that, in a case in which DNA analysis implicates an identified person in the commission of either of these two offenses, and the 20-year statute of limitations has expired, prosecution may commence within an additional five-year period after the DNA identification is confirmed. If there is a DNA match and the 20-year statute of limitations has not yet expired, prosecution may commence within the longer of 20 years after the offense is committed or five years after the date the laboratory report confirming the DNA identification is published. The bill also declares an emergency.

As a result of this change, additional criminal cases could be adjudicated that otherwise may have been barred under current law. The exact number of future cases is uncertain, but not expected to be large, relative to existing caseloads.

### Expenditures

The bill may increase county criminal justice system costs, in terms of prosecution, defense, and adjudication costs, if additional rape and sexual battery cases are generated. The likely sentencing outcome, if the offender is convicted, is the imposition of a prison term, thus creating additional costs for the Department of Rehabilitation and Correction. The marginal cost of adding one offender to that system is between \$3,000 and \$4,000 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.

Rape is a felony of the first degree, and can carry a definite prison term of 3, 4, 5, 6, 7, 8, 9, or 10 years, or a term of life with or without parole. Sexual battery, depending on the circumstances of the case, is either a felony of the third degree (carrying a definite prison term of 1, 2, 3, 4, or 5 years) or a felony of the second degree (carrying a definite prison term of 2, 3, 4, 5, 6, 7, or 8 years).

### Revenues

Given the small number of likely additional rape and sexual battery convictions, and the difficulties of collecting financial sanctions from unwilling or indigent offenders, the amount of state and local revenues that might be gained annually will be negligible. Courts are generally required to order an offender convicted of a criminal offense to pay a mix of state and local court costs and fines. A court is permitted to waive their collection if the offender is determined to be indigent. It should also be noted that courts rarely, if ever, impose the maximum permissible fine. For a felony of

the first degree, the maximum fine is \$20,000. For a felony of the second degree and third degree the maximum fines are \$15,000 and \$10,000, respectively.

"State court costs" are statutorily specified amounts collected by local courts and forwarded for deposit in the state treasury. For a nonmoving traffic violation, the court is generally required to impose state court costs totaling \$60 for a felony. If collected, that amount is divided as follows: \$30 to the Indigent Defense Support Fund (Fund 5DY0) and \$30 to the Victims of Crime/Reparations Fund (Fund 4020).

## **Synopsis of Fiscal Effect Changes**

The differences in the fiscal effects between the substitute bill (LSC 131 0622-2) and the previous version (As Introduced) are as follows:

- The extension of the statute of limitations for rape or sexual battery is narrower in the substitute bill, which means that some small number of sex offense prosecutions may not be permitted that might have been able to proceed under the As Introduced version.
- The substitute bill declares an emergency, which means its provisions take effect immediately rather than on the 91st day after the day upon which it is filed in the Secretary of State's office under the As Introduced version. This may result in some small number of sex offense cases being prosecuted in a timelier manner than might otherwise have occurred under the As Introduced version.