



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 57 of the 131st G.A.

Date: March 3, 2015

Status: As Introduced

Sponsor: Rep. Maag

Local Impact Statement Procedure Required: Yes

Contents: Penalties for aggravated murder

State Fiscal Highlights

- The bill could stack an additional 100 or so inmates in prison past the point in which they would be released under current law and sentencing patterns. At the current annual incarceration cost of \$22,836 per inmate, the Department of Rehabilitation and Correction could experience increased expenditures of at least \$2.3 million each year, although these costs will not occur until 25 or more years into the future.

Local Fiscal Highlights

- The bill will likely result in a greater number of capital murder trials, which can be very expensive in terms of court time, jury costs, prosecution and indigent defense, pre-trial jail expenses to house defendants pending and during their trials. Cost estimates of all facets of capital trials are inexact, but could run into the tens of thousands of dollars.

Detailed Fiscal Analysis

Parole-eligible aggravated murder sentencing

The bill adds five years to the time a person convicted of aggravated murder must be imprisoned before becoming eligible for parole. So if, under current law, they are sentenced to life with eligibility for parole after 20, 25, or 30 years, the bill will increase these minimum term of imprisonment for aggravated murder to 25, 30, or 35 years. The bill also creates two new minimum terms of imprisonment for aggravated murder, 45 or 55 years, to be served before parole eligibility.

State fiscal effect

Time served data from the Department of Rehabilitation and Correction (DRC) suggests that offenders serving time for aggravated murder who were released in 2013 served an average of about 26 years. This suggests that increasing the minimum time served from 20 to 25 years may have little impact since they are currently serving longer average sentences. Increasing the minimum eligibility for parole to 30 or 35 years will likely keep an aggravated murder offender in prison for at least an additional five years over current law.

Commitment report data from DRC suggests there are around 50 annual admissions with life terms for aggravated murder that have parole eligibility. If these offenders served an additional five years before reaching their parole eligibility, irrespective of when the Parole Board would actually grant release, we would begin to see a "stacking effect" beginning about 25 years into the future whereby inmates who would leave prison under current law sentencing practices will remain in prison as a result of the bill. It is difficult to calculate a precise stacking effect because the life terms for aggravated murder have staggered minimum parole eligibility thresholds, and we know that the Parole Board typically does not grant release on an inmate's first parole hearing. Additionally, due to the length of sentences affected by the bill, some inmates may die before reaching the parole eligibility threshold of their sentence.

If the bill resulted in a stacking effect of an additional 100 inmates remaining in prison past the point in which they would be released under current law and sentencing patterns, then at the current annual incarceration cost of \$22,836 per inmate, DRC will experience increased expenditures of at least \$2.3 million each year. It is important to note that any additional cost to DRC as a result of this provision of the bill will not begin to be realized until at least 25 or more years into the future at that point when those currently receiving life sentences for aggravated murder will reach the minimum eligibility threshold for parole and possible release dates, but will remain in prison under the new sentences created by the bill. Further compounding the determination of any estimated cost is the effect of inflation 25 or 30 years into the future.

The bill also creates new aggravated murder sentencing options of life with the eligibility for parole after 45 years and after 55 years. In general, life expectancy for those in prison is not as high as that for the general population. It seems reasonable to estimate that as inmates serve sentences that reach the higher end of the sentencing spectrum, 45 or 55 years before parole eligibility, most inmates will not live this long in prison, especially given the average age of current commitments, for all offenses, is 32. These new life sentence options in the bill may contribute to the overall "stacking effect" such that inmates not eligible for parole for 55 years will remain in prison well past the 20, 25, or 30 year eligibility thresholds in current law.

Local fiscal effect

The life sentence aggravated murder provisions are not likely to have much fiscal effect on local criminal justice systems. The bill does not affect the number of new murder cases in any jurisdiction, nor will it affect the rates of conviction. It is also not clear how the longer sentences will affect the decision of defendants charged with aggravated murder to enter a plea or go to trial. These defendants currently face long prison sentences and most accept plea offers. The prospect of longer minimum sentences is not likely to change this decision calculus.

Death penalty

The bill creates a new aggravating circumstance in the commission of aggravated murder such that the offense was committed purposely, and with prior calculation and design. Under current law, aggravated murder committed with only these conditions is not included in the list of aggravating circumstances required for the death penalty to be applicable. This provision of the bill will enable prosecutors to charge more aggravated murders as capital offenses.

Local fiscal effect

The bill will likely result in a greater number of capital murder trials, which can be very expensive in terms of court time, jury costs, prosecution and indigent defense, pre-trial jail expenses to house defendants pending and during their trials. Capital trials also have two phases with the penalty phase following a conviction. The penalty phase often has expert witnesses that testify as to the mental state, intelligence, and psychological profile of the defendant. Expert witnesses are typically very expensive and are used by both prosecution and defense.

There is no clear cost figure or price tag for a capital trial, but it is safe to estimate that just one such trial could easily reach into the tens of thousands of dollars, including appellate costs. Although a county may be reimbursed for around 40% of indigent defense related expenses, the county will experience potentially significant cost increases related to capital murder trials as prosecutors may bring forth more aggravated murder charges with the new aggravating circumstance allowing for the death penalty.