



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 171 of the 131st G.A.

Date: May 18, 2015

Status: As Introduced

Sponsor: Reps. Blessing and Dever

Local Impact Statement Procedure Required: No

Contents: Minimum amounts of heroin necessary to classify an offender as a major drug offender

State Fiscal Highlights

- The Department of Rehabilitation and Correction's GRF-funded incarceration costs will begin increasing roughly five years after the bill's effective date before peaking another six years later at up to around \$1.4 million or more annually. This means the full fiscal effect of the bill's penalty change on the prison population and related annual incarceration costs will not occur until 11 years after its effective date.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill decreases the minimum quantity of heroin involved in a violation of "trafficking in heroin" or "possession of heroin" that would make the violation a first degree felony and that is necessary to classify an offender as a major drug offender.

State fiscal impact

The bill is likely to increase the number of offenders being convicted of a first degree felony as a "major drug offender" and sentenced to a mandatory maximum prison term of 11 years. These are offenders who, under current law, would have been convicted of a first degree felony but not as a "major drug offender" and sentenced to a definite prison term of three to 11 years.

Time served data from the Department of Rehabilitation and Correction (DRC) shows that for inmates released between calendar years (CYs) 2009 and 2013 the average time served for first degree felony drug offenses was 4.7 years. This means that an offender sentenced under the bill will serve, on average, an additional 6.3 years (11-year mandatory prison term minus average time served of 4.7 years).

The effect on DRC's annual incarceration costs will be a function of the number of prison-bound offenders that would otherwise have been convicted of a first degree felony for heroin trafficking or possession under current law that will instead be convicted as a major drug offender under the bill. DRC release data for CYs 2009 through 2013 indicates that, on average, about 300 offenders are released each year after serving a sentence for a first degree felony drug conviction. A subset of these 300 offenders represents the population that, under the bill, would be convicted as major drug offenders and remain in prison for the additional average of 6.3 years.

The 2013 DRC Intake Study, which provides a detailed analysis of a representative sample of offenders entering prison, suggests that heroin was involved in 31.2% of all drug offenses. If this data is combined and for purposes of estimation one assumes that 31.2% of the 300 first degree felony drug offenders noted in the preceding paragraph were sent to prison for heroin trafficking or possession, then as many as 94 (300 x 31.2%) first degree felony drug offenders released each year were convicted of a heroin trafficking or possession offense. The data, however, does not provide any detail on the amount of heroin an offender was trafficking in or possessed at the time of their arrest, which makes estimating the number of those offenders that will be affected by the bill's revised amounts problematic.

The principal fiscal effect of extending prison stays beyond the amount of time served that would otherwise have been under current law will be in terms of a prison population stacking effect. This refers to the increase in the prison population that occurs as certain offenders currently serving time stay in prison longer while the number of new offenders entering the system does not decrease. This stacking process will stabilize when the number of offenders who begin serving their additional time as

part of the mandatory maximum of 11 years in the bill is about the same as the number leaving prison after serving their additional time. The stacking effect of this bill will start roughly five years after its effective date and stabilize another six years later. This means the full fiscal effect of the bill's penalty change on the prison population and related annual incarceration costs will not occur until 11 years after its effective date.

The table below shows that, about 11 years after the bill's effective date, the prison population stacking effect is expected to have peaked and the associated increase in DRC's annual incarceration costs could range up to between \$1.4 million that \$13.5 million. The low end of the range assumes that, of the above estimated 94 offenders entering the prison system each year that could be affected by the bill's mandatory maximum term of 11 years, 10%, or nine, will receive the mandatory term. The related 11-year stacking effect will require DRC to add 59 beds. The high end of the range assumes that 100% of those 94 offenders will receive the mandatory term. The related 11-year stacking effect will require DRC to add 592 beds. This is not an assertion that all of these heroin offenders would be classified as major drug offenders and sentenced to the maximum term. The estimate instead represents only the upper boundary of potential cost.

Range of Possible Annual Incarceration Cost Increases from Bill's Prison Population Stacking Effect*			
Stacking Effect Starts (year five)		Stacking Effect Stabilizes (year eleven)	
% of Additional Offenders Receiving Mandatory Maximum Prison Term	# of Additional Offenders Receiving Mandatory Maximum Prison Term	Total # of Additional Beds per Year	Total Annual Cost**
10%	9	59	\$1,352,348
25%	24	148	\$3,380,870
50%	47	296	\$6,761,740
75%	71	444	\$10,142,609
100%	94	592	\$13,523,479

*Based on up to 94 offenders estimated as being potentially eligible for the mandatory maximum 11-year prison term each year.

**Based on the current annual institutional operating cost of \$22,836 per bed.

Local fiscal impact

The bill will not create any new felony cases involving trafficking in or possession of heroin, but will affect cases in the future where some drug offenders could face the possibility of a longer term in prison than might otherwise have been the case under current law and practice. There will likely be no discernible fiscal effect on any given county criminal justice system to process and resolve such cases.