



Ohio Legislative Service Commission

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 405 of the 131st G.A.

Date: January 29, 2016

Status: As Reported by House Judiciary

Sponsor: Reps. Schaffer and K. Smith

Local Impact Statement Procedure Required: No

Contents: Offense of importuning

State Fiscal Highlights

- The bill is likely to result in a relatively small increase in the number of offenders being sentenced to prison for a first-time importuning offense, and a corresponding, likely no more than minimal, annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures.

Local Fiscal Highlights

- The bill will affect how certain offenders are sanctioned, but is unlikely to generate any discernible ongoing costs for county criminal justice systems.

Detailed Fiscal Analysis

The bill establishes a mandatory prison term on a first offense for each of four existing prohibitions relating to a person's solicitation of another to engage in sexual activity or sexual conduct, which constitutes the offense of importuning.

Under current law, an importuning violation, depending upon the circumstances present, generally is either a felony of the third or fifth degree with a "presumption" that a prison term will be imposed. The bill amends those penalties to "require" the imposition of a prison term. The sentence for a felony of the third degree is a definite prison term of 1, 2, 3, 4, or 5 years. If the offense is a felony of the fifth degree, and the offender is ten or more years older than the other person, the court is required to impose a mandatory definite prison term of 6, 7, 8, 9, 10, 11, or 12 months.

According to commitment data from the Department of Rehabilitation and Correction (DRC), between calendar years 2010 and 2014, nearly 30 offenders, on average, were incarcerated each year for the offense of importuning. The bill's mandatory prison term under certain circumstances will increase that number to some degree. DRC's most recent time served report for calendar year 2013 indicates that, for

felonies of the third and fifth degree, the average time served was just under two years (1.99) and one year (0.71), respectively.¹

The number of additional offenders likely to be committed to prison each year for a first-time importuning offense is uncertain. However, in the context of a prison system with 50,000-plus inmates and the 30 or so offenders currently committed to prison for importuning, the likely increase in the number of offenders committed for an importuning offense will be relatively small. The marginal cost for DRC to add a relatively small number of offenders to its total inmate population is estimated at \$3,600 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.

The bill will not generate any new felony importuning cases for county criminal justice systems to process, but will likely alter the manner in which a relatively small number of offenders convicted of an importuning 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.

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¹ The average time served for importuning is not readily available.