



# OHIO LEGISLATIVE SERVICE COMMISSION

Robert Meeker

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## Fiscal Note & Local Impact Statement

**Bill:** H.B. 4 of the 132nd G.A.

**Status:** As Reported by House Criminal Justice

**Sponsor:** Reps. Cupp and Rogers

**Local Impact Statement Procedure Required:** No

**Subject:** Determining the amount of cocaine for sentencing purposes

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The bill will have no direct fiscal effect on the state or any of its political subdivisions. It establishes that the amount of cocaine possessed or trafficked by an offender, for sentencing purposes, includes the amount of cocaine plus any compound, mixture, preparation or substance containing cocaine. This was the common legal interpretation of the wording in the Drug Trafficking and Drug Possession Laws prior to the decision in *State v. Gonzales*. In that case, decided on December 23, 2016, the Ohio Supreme Court held that the current wording of the penalties for cocaine possession means that the state must prove the weight of pure cocaine, absent any filler, to determine the applicable penalty. The bill also declares an emergency to ensure that the penalty structure that applied to trafficking and possession of cocaine prior to *State v. Gonzales* continues to be valid.

Absent enactment of the bill, prosecutors will have to conform to *State v. Gonzales*. At a minimum, prosecutors would have to determine the amount of cocaine in a compound, mixture, preparation or substance containing cocaine by having it tested by a certified laboratory. Currently, the only laboratories certified to perform this type of testing are out-of-state. Prices for testing vary by the amount to be tested, the number of samples to be tested, and the type of testing required. The resulting effect on the charging, prosecution, conviction, and sanctioning of offenders for drug trafficking and possession violations is uncertain.

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