



OHIO LEGISLATIVE SERVICE COMMISSION

Joseph Rogers

Fiscal Note & Local Impact Statement

Bill: H.B. 568 of the 132nd G.A.

Status: As Introduced

Sponsor: Rep. Butler

Local Impact Statement Procedure Required: No

Subject: Operating a vehicle while intoxicated, chemical testing, and juvenile bindovers

State Fiscal Highlights

- Nine non-GRF state funds that receive court costs and/or license reinstatement fees may each realize a minimal at most annual gain in revenue from additional operating a vehicle while intoxicated (OVI) convictions.
- The potential increase in the number of chemical tests to determine if drivers are under the influence of drugs or alcohol may lead to a very small increase in the number of OVI offenders sentenced to prison each year. The additional annual incarceration costs to the Department of Rehabilitation and Correction would be absorbed into the daily cost of operating the state prison system.

Local Fiscal Highlights

- The bill will likely result in a small number of additional OVI cases statewide and a corresponding increase in expenditures related to the arrest, prosecution, possible indigent defense, adjudication, and sanctioning in these cases. Since the potential number of new cases in any jurisdiction is expected to be small, any expenditure increase will be incorporated into the daily cost of doing business.
- The bill requires a mandatory bindover of a 16 or 17-year-old charged with aggravated vehicular homicide, transferring these cases from juvenile court to the adult court. The likely number of juvenile offenders would be very small and any increase in cost related to adjudicating these cases would be small and absorbed by the courts.
- The additional OVI convictions stemming from the bill will likely result in local courts collecting increased fine, fee, and court cost revenue that is, depending upon the circumstances of the violation, distributed between: (1) county and municipal general funds, (2) county and municipal indigent drivers alcohol treatment funds, (3) county and municipal special court funds, (4) local indigent drivers interlock and alcohol monitoring funds, and (5) local law enforcement agency enforcement and education funds. The revenue gain for any of these local funds is expected to be minimal annually.

Detailed Fiscal Analysis

Operating a vehicle while intoxicated (OVI) chemical tests

The bill authorizes a law enforcement officer to arrest a driver of a motor vehicle if the officer has probable cause to believe that the driver committed a moving violation and that the moving violation was a contributing factor in a motor vehicle accident that caused serious physical harm to or death of another person. The bill also authorizes the officer to request a warrant to conduct a chemical test of the driver's blood or urine if the officer has probable cause to believe that the person was under the influence of alcohol, a drug of abuse, or a controlled substance at the time of the accident. The officer may transport the driver to a hospital and order the administration of the chemical test if the officer has probable cause and any of the following apply:

- A court issues a warrant;
- It is not feasible to request a search warrant; or
- The officer has requested a warrant, but has not received a response within one hour.

If officers chose to have tests administered with no warrant, and the courts accept the results, there may be slightly more OVI-related convictions statewide.

State fiscal effects

Revenues

The vast majority of OVI-related convictions are misdemeanors. In addition to any mandatory fines, state court costs totaling \$29 are also imposed on an offender convicted of or pleading guilty to a misdemeanor, \$20 of which is directed to the Indigent Defense Support Fund (Fund 5DY0) and \$9 is directed to the Victims of Crime/Reparations Fund (Fund 4020). If the bill creates a relatively small statewide increase in the number of additional OVI convictions, a minimal amount of additional court cost revenue will be collected and deposited into these funds.

Under current law, those convicted of an OVI-related offense face a one-year administrative license suspension (ALS) of their driver's license. The reinstatement fee for a suspended driver's license resulting from an OVI-related offense is \$475. The reinstatement fee revenue is distributed across eight state funds, which are listed in the table below. Given the expectation that the bill would yield a relatively small number of new OVI convictions, the likely revenue gain for any given fund will be minimal annually.

Distribution of \$475 License Reinstatement Fee	
Fund	Portion of Fee
Public Safety – Highway Purposes Fund (Fund 5TM0)	\$30.00
Indigent Drivers Alcohol Treatment Fund (Fund 7490)	\$37.50
Victims of Crime/Reparations Fund (Fund 4020)	\$75.00
Statewide Treatment and Prevention Fund (Fund 4750)	\$112.50

Distribution of \$475 License Reinstatement Fee	
Fund	Portion of Fee
Services for Rehabilitation Fund (Fund 4L10)	\$75.00
Drug Abuse Resistance Education Programs Fund (Fund 4L60)	\$75.00
Trauma & Emergency Medical Services Fund (Fund 83M0)	\$20.00
Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0)	\$50.00
TOTAL Reinstatement Fee	\$475.00

Expenditures

As a result of the likely small number of additional OVI-related convictions stemming from the bill, LSC fiscal staff estimates that very few, if any, additional offenders might be sentenced to prison annually. This means that the potential increase in the Department of Rehabilitation and Correction's annual incarceration costs would be minimal at most. The marginal cost of adding a few offenders to the state's prison system is estimated at \$3,000 to \$4,000 per offender per year.

Local fiscal effects

Fines

The amount of the mandatory fine for an OVI violation depends on certain specified circumstances, such as the number of prior OVI convictions, and ranges from \$375 to \$10,500.¹ As the number of additional OVI convictions is likely to be relatively small and those convicted are not expected to have many, if any, prior OVI convictions, the amount of fine revenue that would be generated annually for any given governmental entity and/or fund would be minimal at most.

The disposition of the fine generally can be described as follows:

- \$25 of the fine imposed for a first offense and \$50 of the fine imposed for a second offense are deposited into the county or municipal indigent drivers' alcohol treatment fund under the control of the court. The court is permitted to use this money to pay the cost of offender assessments (including transportation) and alcohol and drug addiction services.
- \$50 of the fine imposed is deposited into special projects funds under the control of the court to be used to cover the cost of immobilizing or disabling devices, including ignition interlock devices and remote alcohol monitoring devices. If no special projects fund exists, the \$50 is deposited into the indigent drivers interlock and alcohol monitoring fund of the county where the conviction occurred.
- Between \$75 and \$500, depending on the number of prior convictions, is transmitted to the state treasury for deposit into the Indigent Defense Support Fund (Fund 5DY0). Fund 5DY0 is used by the Ohio Public

¹ R.C. 4511.19(G).

Defender Commission to support the state and county criminal indigent defense service delivery systems.

- Between \$25 and \$210, depending on the number of prior convictions, is paid into an enforcement and education fund established by the legislative authority of the law enforcement agency that was primarily responsible for the arrest of the offender. Such funds are to be used to support enforcement and public information efforts by the law enforcement agency.
- Between \$50 and \$440, depending on the number of prior convictions, is paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration.

The balance of the fine imposed is distributed as provided by law, which generally means the county or municipal general fund depending on the court where the conviction occurred.

Expenditures

The bill will likely result in a small number of additional OVI cases statewide and a corresponding increase in expenditures related to the arrest, prosecution, possible indigent defense, adjudication, and sanctioning in these cases. Since the potential number of new cases in any jurisdiction is expected to be small, any additional local expenditure would likely be incorporated into the ongoing cost of doing business.

Juvenile bindovers

The bill requires a mandatory bindover of a 16 or 17-year-old charged with aggravated vehicular homicide. This would reduce a small number of cases in the juvenile court and move them to the adult court. The potential for more serious adult penalties (compared to juvenile sanctions) may induce the juvenile to fight the charge more vigorously and take it to trial. The overall number of aggravated vehicular homicide cases is small. Franklin County has averaged close to five charges between calendar years 2014 and 2016. All things being equal, this may extrapolate to around 50 or so aggravated vehicular homicide cases statewide, and these involve defendants of all ages. From this estimated total, the likely number of 16 or 17-year-old juvenile offenders would be a very small subset. Any increase in cost related to adjudicating these cases would not likely exceed minimal in any jurisdiction.