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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 37  
(1\_135\_0127-1)  
135<sup>th</sup> General Assembly

## Fiscal Note & Local Impact Statement

[Click here for H.B. 37's Bill Analysis](#)

**Version:** In House Criminal Justice

**Primary Sponsors:** Reps. Johnson and K. Miller

**Local Impact Statement Procedure Required:** No

Maggie West, Senior Budget Analyst

### Highlights

- The Ohio Department of Rehabilitation and Correction will likely experience an increase in costs to incarcerate and/or supervise certain OVI offenders who may serve longer mandatory minimum terms under the bill. The magnitude of any increase will depend on the number of offenders who serve longer sentences, the additional length of the term, and the marginal cost per offender in each additional year of that term.
- The Ohio Department of Public Safety may experience an increase in revenue due to the bill's \$375 increase for OVI fines and a potential increase in the number of restricted license plates that are issued.
- Local entities may experience an increase in OVI fine revenue, which is distributed pursuant to statutory formula for specified purposes to various local entities where the offense occurred. The magnitude of any increase will depend on the number of OVI convictions in a given jurisdiction as well as the amount of fine revenue that is ultimately collected.
- Local courts may be minimally impacted by the bill's limited driving privilege changes. These changes are not likely to result in additional costs but may instead change when certain offenders can petition the court for limited driving privileges.

### Detailed Analysis

The bill changes the penalty structure of certain OVI offenses, modifies certain fines and their uses, and makes various changes to actions that a court may or must take for OVI offenders including when a court may grant limited driving privileges to an OVI offender.

## **Mandatory minimum prison term**

The bill increases the mandatory minimum prison term for OVI-related aggravated vehicular homicide, from between two to 15 years under current law, to up to 20 years based on circumstances present. The bill establishes a tiered system based on the number of prior offenses and the nature and differentiates the penalties for aggravated vehicular homicide based on whether an OVI is a low or high tier OVI offense. The bill also generally extends the lookback period for prior offenses when sentencing an offender for OVI-related aggravated vehicular homicide from ten to 20 years.

As a result of the bill's changes, certain OVI offenders may receive a mandatory minimum prison term that is longer than the current mandatory minimum prison term for OVI-related aggravated vehicular homicide based on the circumstances present, or due to the increased lookback period for prior offenses. In calendar year 2022, there were a total of 23 convictions involving noncommercial motor vehicles statewide for OVI-related aggravated vehicular homicide.<sup>1</sup> Of those convictions, it is unknown how many offenders had a prior conviction.

In 2023, the marginal cost for the Ohio Department of Rehabilitation and Correction (ODRC) to house an offender was \$11.98 per day.<sup>2</sup> Marginal costs are those that increase or decrease directly on a per-person basis with changes in prison population. Such costs include medical care, food service, clothing and bedding (for inmates), and mental health services. Using the 2023 daily marginal cost, it costs ODRC \$4,372.70 (\$11.98 x 365) to house an additional individual for one year. The actual increase in costs for ODRC will depend on the number of offenders who ultimately serve longer sentences under the bill than they otherwise would have under existing law, the additional length of the term, and the marginal cost per offender in each additional year of that term.

## **Fines and other penalties**

### **OVI-related aggravated vehicular homicide**

The bill imposes a fine of not more than \$25,000 in addition to any other sanctions for OVI-related aggravated vehicular homicide. The bill does not specify how this fine is to be distributed. Presumably it would be treated and distributed in the same manner as other fine revenue for such cases, which would either be retained by the county or municipality in which the offense occurred, or be forwarded for deposit into the state Security, Investigations, and Policing Fund (Fund 8400)<sup>3</sup> if the violator was cited by the Ohio State Highway Patrol. The magnitude of any increase will depend on the number of OVI convictions in a given jurisdiction as well as the amount of fine revenue that is ultimately collected.

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<sup>1</sup> There were no OVI-related aggravated vehicular homicide convictions involving commercial vehicles in 2022.

<sup>2</sup> See Ohio Department of Rehabilitation and Correction's 2023 Annual Report, which is available on the Department's website via key word search "Annual Report": [drc.ohio.gov](https://drc.ohio.gov).

<sup>3</sup> Fund 8400 is used to provide security for the Governor, other officials and dignitaries, the capitol square, and other state property; undertake major criminal investigations that involve state property interests; provide traffic control and security for the Ohio Expositions Commission on a full-time, year-round basis; and perform nonhighway-related duties of the State Highway Patrol at the Ohio State Fair.

## **OVI financial penalty increase**

The bill increases the minimum mandatory fine for all OVIs by \$375 and specifies that the amount be credited to the existing Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0), which is used to pay for interlock and alcohol monitoring expenses for indigent adult and juvenile offenders.

## **Limited driving privileges**

The bill modifies the conditions in which a court may grant limited driving privileges to an OVI offender by generally lengthening, or shortening in certain circumstances, the period of hard suspension that must be served prior to such privileges being granted. The bill also requires, instead of authorizes as under current law, a court to order the use of continuous alcohol monitoring or an ignition interlock device as a condition of granting limited driving privileges for certain OVI and suspected OVI offenders. The bill's "hard suspension" changes are likely to have minimal impact on local courts, as these changes are not expected to result in additional costs but may instead either speed up or slow down cases when certain offenders can petition the court for limited driving privileges. Presumably any costs incurred for continuous alcohol monitoring or an ignition interlock device will be offset by the bill's additional \$375 fee imposed on all OVIs.

If limited driving privileges are granted, the bill, under certain conditions, requires restricted license plates be displayed on the offender's vehicle.<sup>4</sup> In order to obtain a restricted license plate, a person must apply to the Bureau of Motor Vehicles (BMV) and pay an \$8.25 fee for the license plate as well as a \$5 service fee. As a result, there will be an indeterminate increase in applications for restricted license plates and related BMV fee revenue. For each restricted license plate issued, the BMV will receive \$8.25, which will be credited to the Public Safety – Highway Purposes Fund (Fund 5TM0). Fund 5TM0 is used in part to pay for the BMV's operating expenses. The \$5 service fee will be retained by the deputy registrar issuing the restricted license plate.

## **Court warning to OVI offenders**

The bill authorizes a court to warn anyone who pleads guilty to or who is convicted of an OVI offense of the penalties for an OVI-related aggravated vehicular homicide. Since the bill's "warning" provision is permissive and a court can choose if and how to provide such notice, the impact on any given court that chooses to do so is likely to be minimal. For context, there were a total of 25,292 noncommercial convictions and 29 commercial convictions for OVI statewide in calendar year 2022.

## **Synopsis of Fiscal Effect Changes**

In terms of fiscal effect, most notably when compared to the As Introduced version of the bill, the substitute bill (I\_135\_0127-1) changes the penalty structure of certain OVI offenses, modifies certain fines and their uses, and makes various changes to actions that a court may or

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<sup>4</sup> R.C. 4503.231 provides for limited driving privileges with a condition that the person display restricted license plates on their vehicle.

must take for OVI offenders. The bulleted list below highlights these changes followed by their estimated fiscal impact.

- **Tier-based OVI penalty structure** – The substitute bill increases the mandatory minimum sentence for OVI-related aggravated vehicular homicide to up to 20 years, and establishes a tiered sentencing system based on the number of prior offenses and the nature of the offense. This change will likely impact the number of offenders sentenced to prison, including the possible length of stay, but the ultimate fiscal impact (savings or increase) will depend on the number of prior convictions future offenders would have and how they are sentenced under the bill.
- **OVI financial penalty** – The substitute bill replaces the OVI financial penalty increases that were in the As Introduced version of the bill with a \$375 minimum mandatory fine increase that applies to all OVIs and requires the increase be forwarded for deposit into the state Indigent Drivers Interlock and Alcohol Monitoring Fund (Fund 5FF0).<sup>5</sup>
- **Court actions** – The substitute bill modifies the conditions in which a court may grant limited driving privileges to an OVI offender and requires, instead of authorizes, a court to order the use of continuous alcohol monitoring, an ignition interlock device, or restricted license plates as a condition of granting limited driving privileges for certain OVI and suspected OVI offenders. The substitute bill also authorizes, instead of requires, a court to warn anyone who pleads guilty to or who is convicted of an OVI offense of the penalties for an OVI-related aggravated vehicular homicide. The net effect of these changes is that there may be (1) additional costs for political subdivisions related to granting limited driving privileges for certain OVI offenders (potentially offset by the \$375 fee discussed in the above bullet), (2) a potential increase for the BMV to issue restricted license plates, and (3) a minimal annual savings for local courts as a result of not having to provide a warning to OVI offenders.

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<sup>5</sup> Under the As Introduced version, the proposed penalty increases may have resulted in increased revenue for the county or municipality where the violation occurred, or the state Security, Investigations, and Policing Fund (Fund 8400) if the violator was cited by the Ohio State Highway Patrol to Fund 5FF0.