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Office

H.B. 37
(1_135_0127-3)
135th 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

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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.
- 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 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.¹ 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.² 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)³ 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.

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

² 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.

³ 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 lengthens the period of a hard suspension that must be served before certain OVI offenders may be considered for limited driving privileges. 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.

Court warning to OVI offenders

The bill 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 bill does not specify how the "warning" is to be given, thus giving courts some flexibility in determining how they want to do so. That said, the impact of the bill's "warning" provision 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, the current substitute bill (I_135_0127-3), when compared to the previous substitute bill (I_135_0127-1), generally makes changes that impact the actions that a court may or must take with respect to certain OVI offenders. The bulleted list below highlights those changes followed by their estimated fiscal impact.

- The substitute bill reduces the lookback period for most OVI offenses from 20 years to ten years, thus restoring current law (except for OVI-related aggravated vehicular homicide, which retains the 20-year lookback). This change may reduce the possible prison term for certain OVI offenders, as they may have moved to a higher tier in the penalty structure under I_135_0127-1, due to a prior conviction that occurred ten to 20 years prior.
- The substitute bill modifies the length of the "hard suspension" imposed for certain first-time OVI offenders before they are eligible for limited driving privileges based on whether the offender agrees to continuous alcohol monitoring or an ignition interlock device. The change is not expected to result in additional costs but would instead impact the time frame in which certain OVI offenders can petition the court for limited driving privileges.
- The substitute bill also removes the requirement that the court order restricted license plates be displayed on vehicles operated by certain OVI offenders, and requires, instead of 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. The net effect

of these changes is that there may be: (1) a potential savings for the Bureau of Motor Vehicles (BMV) to not have to issue the additional restricted license plates, and (2) a minimal annual increase in expenditures for local courts to provide a warning to OVI offenders.