



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 92 of the 131st G.A.

**Date:** May 29, 2015

**Status:** As Reported by House Judiciary

**Sponsor:** Rep. Hagan

**Local Impact Statement Procedure Required:** No

**Contents:** Prohibits an employee of a public or nonpublic school or institution of higher education from engaging in sexual conduct with a minor who is enrolled in or attends that school

### State Fiscal Highlights

- The bill's expansion of the offenses of sexual battery may result in a few additional felony offenders being sentenced to prison, the fiscal effect of which will be no more than a minimal annual increase in the Department of Rehabilitation and Correction's GRF-funded incarceration expenditures.
- As a result of violations of the bill's expanded prohibitions, a negligible amount of annual revenue, in the form of locally collected state court costs, may be deposited to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Reparations Fund (Fund 4020).

### Local Fiscal Highlights

- It is possible that the annual costs that a county incurs in prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning felony offenders, as well as the annual revenue from fines and payments of court costs may increase as a result of the bill. However, it is unlikely that any such increase will be more than minimal annually given the likelihood that the number of cases will be relatively small.

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## Detailed Fiscal Analysis

### Overview

The bill expands the definition of sexual battery to specifically prohibit any employee (in addition to a person in authority, as under current law) of a public or nonpublic school or institution of higher education from engaging in sexual conduct with a minor who is enrolled in or attends that public or nonpublic school, or who is enrolled in or attends that institution of higher education, as long as the victim is at least four years younger than the offender. The bill also removes the classification of sexual battery as a felony of the second degree in the case of minors less than 13 years of age. In another provision of continuing law, if the victim is under 13, the offense is rape. Under current law, unchanged by the bill, a violation of the sexual battery prohibition is generally a felony of the third degree (carrying a definite prison term of 1, 2, 3, 4, or 5 years).

### State fiscal effects

#### Expenditures

If, as a result of violating the bill's prohibition, additional employees are sentenced to prison, or sentenced to longer stays in prison than would otherwise have been the case, the Department of Rehabilitation and Correction's GRF-funded annual incarceration costs could increase. However, as the number of employees of public or nonpublic schools or institutions of higher education that will be sentenced annually is likely to be small, any increase in the Department's incarceration costs will not exceed minimal.

#### Revenues

Subsequent to a conviction or guilty plea, the sentencing court is generally required to order an offender convicted of a criminal offense to pay a mix of state and local court costs and fines. A court is permitted to waive their collection if the offender is determined to be indigent. Courts collect state court costs and fines for deposit to the credit of the Indigent Defense Support Fund (Fund 5DY0) and the Reparations Fund (Fund 4020).<sup>1</sup> For a felony of the third degree the maximum fine is \$10,000. However, it should be noted that courts rarely, if ever impose the maximum permissible fine. The amount of locally collected state court costs assessed for this type of felony is \$60.<sup>2</sup> As the number of new or enhanced convictions or guilty pleas is likely to be relatively small statewide, the amount of revenue generated is unlikely to exceed negligible.

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<sup>1</sup> R.C. 120.08 and 2743.191.

<sup>2</sup> The locally collected state court costs are divided as follows: \$30 to Fund 5DY0 and \$30 to Fund 4020, as required in R.C. 2949.091(A)(1) and 2743.70(A)(1).

## **Local fiscal effects**

### **Expenditures**

It is possible that the annual costs incurred by a county in prosecuting, adjudicating, defending (if the offender is indigent), and sanctioning felony offenders may increase. If these expenditures do increase, it is unlikely that any rise would be more than minimal annually given the likelihood that the number of cases that could be affected or created by a violation of the bill's prohibition in any given jurisdiction will be relatively small.

### **Revenues**

Subsequent to a conviction or guilty plea, the sentencing court generally imposes a fine and local court costs on the offender. As it appears that the number of new or enhanced convictions or guilty pleas will be relatively small in any given local jurisdiction, the amount of court cost and fine revenues that will actually be collected by a county court of common pleas is unlikely to exceed minimal.