

# Fiscal Note & Local Impact Statement

122<sup>nd</sup> General Assembly of Ohio

BILL: Sub. H.B. 32 DATE: May 30, 1997

STATUS: As Reported by House Health, Retirement and Aging SPONSOR: Rep. Reid

LOCAL IMPACT STATEMENT REQUIRED: No — Minimal cost

CONTENTS: Enhances penalties for the commission of certain sex offenses, if the offender administers controlled substances, and requires mandatory prison sanctions.

## State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

- The bill enhances penalties for the commission of certain sex offenses in which controlled substances are used to impair the victims judgement; the number of cases is expected to be minimal.
- Since the bill increases penalties and requires mandatory sentencing for rape it would result in a potential increase in state costs for incarceration.

## Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999	FUTURE YEARS
<b>Counties</b>			
Revenues	Potential negligible gain	Potential negligible gain	Potential negligible gain
Expenditures	Potential negligible increase	Potential negligible increase	Potential negligible increase

- The bill could result in an increase in the seriousness of cases prosecuted, thus producing a potential increase in county fine expenditures related to prosecution, adjudication.
- Fine and asset forfeiture revenues from drug cases could increase and possibly offset some of the increase in expenditures.



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## ***Detailed Fiscal Analysis***

The bill (1) enhances penalties for the commission of certain sex offenses, if the offender administers controlled substances to a person to impair the persons judgement; (2) increases the penalties for trafficking in and possession of flunitrazepam (Rohypnol); and (3) requires courts to impose mandatory sentences on offenders convicted of rape.

### **Availability of Rohypnol**

Until March 1996, Rohypnol was available to consumers in the United States only by importation of a 90-day supply based on a valid prescription. According to the US. Customs Service, 270 seizures of 310,184 tablets of Rohypnol were made between January 1990 and February 1996, with 90 percent of the seizures made after 1992, indicating its growing availability. As of March 1 1996, the US. Drug Enforcement Administration (DEA) documented 2,460 law enforcement cases involving Rohypnol nationwide, with 816 cases in Texas, and 562 in Florida. These two states are the primary entry points into the US. for the illegal trade of this drug. The DEA also reported that 2,000 seizures of the drug had been made in 32 states.

The bill by changing the offense category for trafficking in and possession of Rohypnol essentially imposes the same penalties associated with trafficking in and possession of controlled substances in schedule I or II. But given that the Pharmacy (PRX) board is only aware of one case presently in the state involving Rohypnol, and that the State Highway Patrol has reported only two cases of arrests involving this drug, it is assumed that it has not become a drug of choice in Ohio, hence no current significant impact on the state is expected. However, any substantial increase in the number of prosecutions would increase county expenditures for prosecution and adjudication. Fine and asset forfeiture revenues could also increase and possibly offset the potential increase in expenditures. This will also result in an increase in expenditures to DRC as a result of the enhanced penalties, which would result in offenders being sentenced to longer prison terms.

The DEA has proposed rescheduling Rohypnol as a Schedule I drug, pending a review by the FDA. If this occurs, enactment of the law in Ohio would be a mere formality, as ORC 3719.41 changes constantly with Federal Law or rules, i.e. the federal law will be enforced.

### **Administration of Controlled Substances on Victims**

The bill enhances penalties for any person who has administered a controlled substance to another person and commits the offense of rape, sexual battery, corruption of a minor, gross sexual imposition or sexual imposition. Penalty for rape is F1, this bill adds a mandatory sentence, sexual battery is enhanced from an F4 to F3, corruption of a minor goes to F3 from F4 or F5 from M1 if the victims is less than 4 years younger than the offender, gross sexual imposition is increased from F4 to F3.

Although no data is available as to the number of sex offenses victims who had controlled substances administered to them to facilitate the commission of the crime, anecdotal information obtained from DRC 1992 intake study may serve as a loose guide. In 1992, the study

shows that there are 214 persons committed to DRC facilities with a sex offense as a primary or secondary offense. Of these 214 persons, 6 persons had an additional charge of possession of powder cocaine-1, marijuana-1, “unknown cocaine”-1, and “unknown drugs”-3. In addition, a 1996 DRC intake report shows 19 persons were committed for corruption of another with drugs. Although this offense relates primarily to offenders who have provided drugs to others for the purpose of making them demand more drugs, we can draw inferences from the numbers. Due to the current small number of cases and coverage by existing law, fiscal effects are expected to be negligible.

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