

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: **Am. Sub. H.B. 37**

DATE: **May 5, 1997**

STATUS: **As Passed by the House**

SPONSOR: **Rep. Bateman**

LOCAL IMPACT STATEMENT REQUIRED: **No** — **Minimal cost**

CONTENTS: **Creates the offense of inmate harassment of detention center employee**

State Fiscal Highlights



STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase
Crime Victims Reparation Fund			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increa

- The bill could result in a potential increase in revenues and expenditures related to the number of additional cases created. Revenue gains should take the form of increased collection of state court costs which are deposited in the Reparation Fund, and increased expenditures which would be related to additional demand for indigent defense and incarceration.
- The Department of Rehabilitation and Correction (DRC) estimates that approximately 194 such incidents occurred system wide in calendar year 1996. While these offenses may be dealt with administratively through “bad time” for inmates currently entering the system, inmates sentenced prior to felony sentencing reform are best dealt with through prosecution. As a result of the option of “bad time”, the number of new prosecution cases resulting from the bill should experience only a temporary increase.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increa
Municipalities			
Revenues	-0-	-0-	-0-
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increa
Townships			
Revenues	-0-	-0-	-0-
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increa

- The degree to which the incidents addressed in the bill occur annually in various state and local detention facilities creates the potential for an increase in the number of felony cases prosecuted. Furthermore, as a result of the provisions addressing testing, the degree to which the courts, prosecutors, or law enforcement authorities investigating the case exercise their discretion, will determine the extent to which local expenditures increase for such services.
- The bill could generate a potential gain in revenues to counties related to increased collection of local court costs and fines. Furthermore, as a result of additional caseload, counties could experience a potential increase in expenditures related to prosecution, adjudication, indigent defense and incarceration. However, since the offenses addressed

in the bill may already be prosecuted under existing law, and often occur in state facilities, the number of additional cases created should be minimal and decrease over time as more and more state inmates are sanctioned administratively under recently enacted “bad time” provisions.

- The bill may also produce a potential savings to counties, municipalities, and townships operating detention facilities as a result of a potential shift of offenders to the state system. Incarceration costs for an offender serving a sentence in a local facility are generally the responsibility of the entity operating the facility, while incarceration costs in state facilities are borne entirely by the state.

Detailed Fiscal Analysis

Provisions of the Bill

The bill creates the offense of harassment of a detention facility employee by an inmate, by prohibiting persons confined in a detention facility from the causing or attempting to cause an employee of the facility or the entity operating the facility to come into contact with a bodily substance. Additionally the bill provides an enhancement for those committing the offense with knowledge that they are carriers of the HIV virus, hepatitis, or tuberculosis. Currently, those committing the offenses addressed in the bill may be charged with assault, which when committed at a detention facility are an F-5 or F-4 depending on the circumstances involved. Under the bill, those committing the offenses could be charged with an F-5 for causing the other person to come in contact with the bodily substance, and an F-3 if the person is a knowing carrier of HIV, hepatitis, or tuberculosis. In order to identify the presence of HIV, hepatitis, or tuberculosis, the law enforcement agency investigating a case may at their discretion require testing for infection without the supervision of the state health department.

In addition to the provisions on inmate harassment, the bill amends the conditions under which a local government may seek reimbursement from the state in the prosecution of certain cases at Department of Rehabilitation and Correction (DRC) and Department of Youth Services (DYS) facilities.

Effects of the Bill

Since the offenses addressed in the bill may already be prosecuted as assaults under existing law, the number of additional cases created as a result of the bill should be minimal. As a result, the primary fiscal impact should be related to the whether the inmate knows he or she is a carrier of HIV, hepatitis, or tuberculosis.

According to a representative of the DRC, 194 such offenses occurred in Ohio prisons during calendar year 1996. While this figure provides a good starting point in developing an estimate of the impact of the bill, it does not address the degree to which the enhancement might come into play. Specifically, while the figure provides an indicator as to how many offenses are actually occurring at the state level, it does not address the question of who is committing these offenses. As a result, the ability to assess the impact of the enhancements related to either infectious status is difficult to determine. According to DRC, 255 of the 46,000 inmates currently incarcerated in the state prison system currently suffer from the conditions covered under the bill, and 194 such offenses occurred system wide. LBO therefore estimates less than five

offenses occurring annually in state facilities would involve the enhancement attached to being a carrier of either HIV, hepatitis, or tuberculosis.* Currently the average marginal cost per inmate in a state prison is \$4,015 annually and is borne entirely by the state.

As the result of many of the offenses addressed in the bill taking place in detention facilities located across the state as well as those taking place in facilities operated by various counties, municipalities, and townships, the bill could result in a potential minimal increase in both revenues and expenditures to counties related to an increased felony caseload. Specifically, the possibility exists for the bill to generate a gain in revenues to counties as a result of increased collection of fines and local court costs. Currently local court costs in felony cases vary across the state with the level of actual collection difficult to estimate due to the degree to which they might or might not be collectible. Additionally, the bill could also result in a potential increase in costs to the counties related to prosecution, adjudication, and indigent defense for new cases created.

In addition to contributing to increasing revenues and expenditures, the degree to which incidents taking place in locally operated detention facilities result in felony convictions may also generate potential savings related to a shift in incarceration costs to the state following conviction. Specifically, since most of the offenders incarcerated locally are misdemeanants, the commission of any of the felony offenses contained in the bill could result in their transfer to a state facility. Presently, the average cost of incarceration in a county jail is \$52 per day and in the case of state misdemeanor offenses is paid entirely by the county. However, as discussed above, since the offenses addressed in the bill may already be prosecuted as felonies under existing law, the impact on both revenues and expenditures to counties, municipalities, and townships should be minimal.

*This estimate treats all inmates equally and makes no adjustment as to whether an infected inmate is more or less likely to commit this offense.

□ *LBO staff: Jeff Newman, Graduate Researcher*

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