

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: Am. S.B. 32 DATE: March 4, 1997

STATUS: As Passed by the Senate SPONSOR: Sen. Howard

LOCAL IMPACT STATEMENT REQUIRED: Yes

CONTENTS: The bill expands the offense of aggravated murder to prohibit purposely causing the death of a person under 13 years of age and includes the commission of an aggravated murder against a person under 13 years of age as an aggravating circumstance in the commission of a capital offense.

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999-2009	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Indeterminate increase	Indeterminate increase	Indeterminate increase

- DRC population by FY 2009 would increase by approximately 20 persons, increasing costs by \$73,000.
- DRC prison population would continue to increase annually. Thus, DRC would incur annual incremental increases in incarceration costs.
- Those charged under provisions of the bill will be less likely to plead guilty because of the penalties involved, resulting in increased court costs associated with indigent defense.
- Incarceration costs for these felony offenses will be sustained by the state, while the state and counties will share costs for prosecution and indigent defense. Costs of indigent defense in capital appeals are born by the state.



Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1998	FY 1999-2009	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Indeterminate increase	Indeterminate increase	Indeterminate increase
Municipalities			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

- Counties will sustain costs for prosecution of these felony offenses, while the state and counties will share costs for indigent defense.
- Those charged under provisions of the bill will be less likely to plead guilty because of the penalties involved, resulting in creased adjudication costs for municipalities and counties operating courts.
- Costs for incarceration of these felony offenses will likely increase as fewer pleas may result in longer stays in county and municipal jails.

Detailed Fiscal Analysis

The bill expands the offense of aggravated murder to also prohibit purposely causing the death of a person who is thirteen years of age or younger The bill also expands the list of capital offense aggravating circumstances to include the commission of an aggravated murder against a person under thirteen years of age.

Statistics on Juvenile Victims 13 years of age or younger

The number of victims thirteen years or younger was estimated by utilizing The National Crime Victimization Survey published by the Bureau of Justice Statistics in April 1996. The survey tracked crime victimization from the period of 1973-94, and provides detailed information about victims, including age group and what type of offense was committed against them. A number of assumptions were used to develop the analysis. First, the closest age group to thirteen and under which is tracked by the survey is ages 12-15, it was assumed that the number of victims in this age group were similar to those victims thirteen years of age or younger. Second, it assumes the national percentage of victims of violent crime in this age group is similar to the percentage of those in Ohio. Third, it assumes that not all of these crimes are reported, and thus, adjusts for the national percentage of crimes reported.

With these assumptions, it was estimated that 10.3% of violent crime is committed against persons 13 years or age or younger. This percentage was then applied to inmates described below to estimate the number of offenders that could be affected by the bill. It is also important to note that according to the survey, most offenders who victimize juveniles are family members, friends, or acquaintances. In 1991, strangers committed only 22 percent of personal crimes against juveniles.

Potential effects on Inmate Population

The effect on DRC's inmate population was estimated by analyzing DRC's total number of commitments in FY 1996 for those violent offenses that could result in the death of a victim under the provisions of the bill. DRC intake for these offenses was 434 in FY 1996. This number was used as the estimated annual number of offenders committing these violent offenses under the provisions of the bill that could result in the death of a person thirteen years of age or younger.

To develop an estimate of the total number of offenders that could be committed to DRC who committed violent offenses against a person age thirteen years or younger, three assumptions were made.

- First, that offenders annually committed to DRC for violent offenses against persons thirteen years of age or younger remains relatively constant.
- Second, the percentage of offenders committed to DRC annually for committing offenses against a person thirteen years of age or younger is 10.3%.
- Third, that under current law, specifying that no person can be committed of aggravated murder unless the person was found to have intended to cause the death of another, and provisions in existing law regarding the use of permissive and conclusive presumptions in jury instructions as to whether the offender intended to cause the death of the person killed, would have tended to result in such offenders being convicted of involuntary or voluntary manslaughter.

This would mean an average time spent of 12.53 years and 13.55 years respectively. (Under aggravating murder sentencing law, these individuals would be sentenced to 25-30 years will parole eligibility after serving 25 years. However, under aggravating circumstances, these individuals could be sentenced to death). Time served would thus increase by an average of 12 years if the death penalty were not imposed on the offender. For those offenders who would under current law have been found guilty of murder, time served would increase from 21.1 years to 25-30 years, while aggravated murder offenders would see their sentences increase to 30 years if death is not imposed in both cases.

With these assumptions, the estimated annual DRC intake for offenders committing violent offenses against persons thirteen years of age or younger and could therefore be sentenced to death, or the 25-30 year term imposed by the bill, is 43 (10.3% x 434). The annual increase in inmate population of 31 (estimated population, not including offenders who would currently be found guilty of murder or aggravated murder) adds approximately 372 (31 inmates per year x 12 years) new inmate years to be served by offenders who committed a violent offense under the provisions of the bill, and would currently have been found guilty of involuntary manslaughter, voluntary manslaughter and murder. Given the fact that these individuals could also be sentenced to death under the aggravating circumstances capital offense imposed by the bill and the fact that there are no statistics available on the number of years condemned inmates serve waiting for the imposition of capital punishment, it is difficult to provide estimates of increased costs resulting from the bill.

DRC's 1993 study of average time served was used to determine what the average offender convicted of or pleading guilty to the bill's listed offenses is serving under the existing system, and adjusted for the effect of the new sentencing guidelines imposed by S.B. 2 which became

effective in November 1995. The following table summarizes each offense, average time served by the offender, felony level, and the estimated average DRC intake for the offenses covered by the bill.

Offenders (Intake), Avg Time Served (Current) and Under the Provisions of the S.B. 32, If the Death Penalty is Not Imposed			
Offense	Average Times Served (In Years) Current Law	Average Time Served (In Years) S.B. 32	Average DRC Intake in FY 1996
Involuntary Manslaughter	12.53	Min 25	15
Voluntary Manslaughter	13.55	Min 25	5
Murder	21.1	25 – 30	11
Aggravated Murder	25	25 - 30	12

As illustrated in the above table, offenders committing violent offenses covered by the provisions of the bill may be serving a wide variety of prison terms under the existing system. For example an offender charged with voluntary manslaughter serves 13.55 years, the effects of the aggravated murder/aggravating circumstances under the bill would not have an economic effect until the 13.55 years is served or in other words an increase in a prison term would not have an effect until there was an actual increase in time served by the offender. In this example, if the offender was sentenced in 1996 the additional 12-15 years would not have an economic effect until 2009. A person convicted of aggravated murder in 1996 serves an average of 20.24 years; the economic effect would not be incurred until approximately 2015 when the additional five years imposed by the bill begins. Therefore the annual increase in DRC incarceration costs vary according to the number of inmates the bill effects in that given year.

Currently it costs DRC on average \$38 per day, \$13,682 per year, to house an inmate, with \$10 of that amount, \$3,650 per year, representing marginal costs (i.e. utilities, clothing, food, and medical care) and the remaining \$28 representing relatively fixed costs (i.e. personnel and equipment).

□ *LBO staff: Ogbe Aideyman, Budget Analyst/Economist.*

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