

Fiscal Note & Local Impact Statement

122nd General Assembly of Ohio

BILL: S.B. 53

DATE: May 2, 1997

STATUS: As Reported by Senate Judiciary

SPONSOR: Sen. Nein

LOCAL IMPACT STATEMENT REQUIRED: No Minimal Cost

CONTENTS: Expands the offenses and conditions under which a criminal or juvenile court may admit videotaped testimony of a child victim.

State Fiscal Highlights

STATE FUND	FY 1997	FY 1998	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

- The bill could result in a potential minimal increase in state expenditures related to additional demands for the Bureau of Criminal Investigation and Identification (BCII) to provide equipment for recording and televising additional depositions and testimony generated by the legislation.
- Research suggests that the current use of audio-video technology is minimal and that many courts maintain their own equipment or choose to contract for these service, therefore the degree to which state expenditures in this area increase should be limited.
- As a result of expanding the ability to use testimony by deposition, videotape, or closed circuit television, the bill could increase the likelihood of a conviction. Thus, the bill could result in a potential minimal increase in state expenditures related to incarceration.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

- In that the bill is expected to affect a small number of cases statewide, it could result in a potential minimal increase in county expenditures to provide personnel to support BCII equipment, maintain and operate county owned equipment, and contract with vendors to produce or provide videotaped or televised depositions and testimony.



Detailed Fiscal Analysis

Provisions of the Bill

Under existing law, at the request of the prosecution the court must order the testimony of an alleged victim of certain “specified offenses or delinquent acts” be taken by deposition if the victim is under 11 years of age. Additionally, existing law permits the prosecution to file a motion with the court requesting that testimony of a child victim be taken in a room other than the court room and be televised into the court room via videotape or closed-circuit television. The court, at its discretion, is then permitted to order the testimony of a child victim taken outside of the court room if it is determined that the victim is unavailable to testify in the physical presence of the person charged with the “specified offense or delinquent act” due to one or more of the following conditions: 1) the persistent refusal of the child victim to testify despite judicial requests to do so; 2) the inability of the child victim to communicate about the alleged offense or act due to extreme fear, failure of memory, or other similar reason; or 3) the substantial likelihood that the child victim will suffer serious emotional trauma as a result of testifying. Furthermore, testimony of a child victim videotaped at a preliminary hearing in a case involving a “specified offense or delinquent act” may be admitted into evidence at the trial under the same circumstances as a videotaped deposition. If the videotaped testimony is admitted, a child victim may be required to testify at the trial, but only under limited circumstances. Should the court lack the capability to carry out videotaped or televised depositions and testimony, BCII is required to provide the necessary equipment upon request.

Under the bill, the definitions of “child victim” and “specified offenses and delinquent acts” are expanded. Specifically, the bill would increase the age of a child victim permitted to testify by means of deposition, videotaped deposition, televised testimony, or recorded testimony from 11 to 13 years of age. Furthermore, the bill would expand the list of “specified offenses or delinquent acts” in which the use of depositions, videotaped depositions, televised testimony, or videotaped testimony of a child victim is permitted to include unlawful restraint, criminal child enticement, importuning, public indecency, procuring, soliciting, solicitation after a positive HIV test, any violation of the offense of endangering children, or any “offense of violence” as define in section 2901.01 (A) (1) and (2) of the Ohio Revised Code.

Effects of the Bill

Since no new offenses are created as a result of the bill and at most a minimal number of additional cases are expected be affected, most of the resulting fiscal impact produced is expected to be related to the costs of securing and operating the equipment necessary to conduct additional depositions and testimony and potential increase in incarcerations from additional convictions. According to administrators of several common pleas courts, the extent to which courts currently possess the capability to conduct videotaped or televised depositions or testimony is varied. Specifically, an informal survey conducted by LBO of common pleas courts serving both large and medium sized counties statewide revealed that while many courts maintain videotape equipment, most do not possess closed-circuit television capability and when necessary choose to contract for this service instead of requesting it through BCII.

Although it is expected that the number of additional cases in which the provisions of the bill would be applied is small, it could still result in a potential increase in demand for BCII to provide additional services in the form of videotape and closed-circuit television equipment, and could thus generate a potential minimal increase in state expenditures. Additionally, since the bill is expected to increase the number of successful prosecutions for the offenses addressed, it could also result in a potential increase in state expenditures related to incarceration. However, if a representative of the Ohio Prosecuting Attorneys' Association is correct and the bill generates only a few additional convictions statewide, any increase in state incarceration expenditures should be also minimal.

As discussed above, in that existing law requires BCII to provide the equipment necessary to conduct videotaped or televised depositions or testimony, the bill could result in a potential increase in county expenditures related to supporting BCII equipment, operating and maintaining court-owned equipment, or contracting with outside vendors to provide the capability to carry out videotaped and televised depositions or testimony. However, as is also discussed above, in that the number of cases in which the use of videotape or closed-circuit television is expected to be used appears to be small and that the services could be provided by BCII at a minimal cost to the counties, any increase in expenditures resulting from contracting for these services should be minimal.

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