# *Fiscal Note & Local Impact Statement*

*123 rd General Assembly of Ohio*

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| BILL: | **Sub. H.B. 331** | DATE: | **October 18, 1999** |
| STATUS: | **As Reported by House Criminal Justice** | SPONSOR: | **Rep. DePiero** |
| LOCAL IMPACT STATEMENT REQUIRED: | **No — No local cost** | | |
| CONTENTS: | **Modifies the procedure pursuant to which a court of appeals may modify or vacate and remand a sentence that imposes specified types of prison terms** | | |

## *State Fiscal Highlights*

- No direct fiscal effect on the state.

## *Local Fiscal Highlights*

- No direct fiscal effect on political subdivisions.

## *Detailed Fiscal Analysis*

Existing Felony Sentencing Law permits a defendant to appeal on the basis that the sentencing judge has imposed consecutive sentences and that the consecutive sentences exceed the maximum prison term allowed for the most serious offense of which the defendant was convicted. This section, O.R.C. §2953.08 (C), allows for the appeal, but missing is a list of the findings required for a court to amend or vacate the sentence. As such, it is possible for a defendant to appeal a sentence, but the judge is unable to modify or vacate it. The bill revises this right of appeal of consecutive sentence to specify what a court must find for amending or vacating consecutive sentences. Additionally, the bill addresses the larger issue of the lack of findings contained within the trial court record. If required findings are not contained within the trial court record of an appealed case, then the court hearing the appeal will remand the case to the sentencing court with the instructions to state, on the record, the required findings. This bill does not add any additional work for the courts, but enables the appellate court to ensure that the trial court record contains the necessary information for appellate review.

According to the staff of both the Ohio Judicial Conference and the Ohio Criminal Sentencing Council, these modifications should not have a direct fiscal effect on the state or any local political subdivision. This bill clarifies a provision that was not fully addressed in the major revision of the Felony Sentencing Law brought about by Am. Sub. S.B. 2 of the 121st General Assembly. It also enables appellate courts to remand appropriate cases to gain additional and necessary information.

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