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## ***Detailed Fiscal Analysis***

### **Provisions of the Bill**

The bill requires the imposition of a mandatory prison term, generally of unspecified length, on an offender convicted of felonious assault, aggravated assault, and assault if the victim is a peace officer who suffers serious physical harm as a result of the offense. The bill also requires judges or magistrates, and not clerks of courts, to set bail in such cases.

### **Peace Officers Injured in Ohio**

The Federal Bureau of Investigation (FBI) publishes an annual report, "Law Enforcement Officers Killed and Assaulted," which provides detailed information on the circumstances and types of violent offenses committed against law enforcement officers. The definition of "law enforcement officer" used in the FBI reports includes "sworn state, local, and federal law enforcement officers having full arrest powers." This is sufficiently similar to the definition of "peace officer" as defined in section 2935.01 of the Revised Code, to allow for adequate comparison.

In calendar year 1997, there were 2,133 assaults on law enforcement officers in Ohio that were reported to the FBI. Of these assaults, 60 involved the use of firearms. Under current state law, offenders who use firearms in assault offenses are already subject to mandatory prison terms. In addition, we know from the FBI data that 26.7 percent of the assaults on law enforcement officers reported in 1997 resulted in injury. Armed with these two pieces of information, we have estimated that the maximum number of assault cases that could be affected annually by the bill would be around 600 or so, with the realization that the victimized peace officer in some number of those assaults would not suffer serious physical harm.

### **Offenders Who Assault Peace Officers**

LBO believes that assault on a peace officer is not treated lightly in any jurisdiction in the State of Ohio, and that any instance of such an assault, particularly one in which there is serious physical harm, will be prosecuted vigorously. The bill specifies that serious physical harm to the officer must occur for a mandatory prison term to be invoked. We also assume that the majority of such offenders are currently charged under the felonious assault statute, with a few others charged under aggravated assault. We also assume that any offender who seriously injures a peace officer already receives a prison sentence, even if they are only convicted of, or plead guilty to, simple assault, a fourth-degree felony. Thus, the bill will not, we believe, result in any additional offenders being sentenced to prison. What will result is that some offenders already being sentenced to prison will experience longer stays, as the bill prohibits their eligibility for any reductions in their stated prison term.

*State Fiscal Effects.* Around 500 offenders are sentenced to prison annually for assaulting a peace officer, with 200 to 300 of those offenders being convicted of simple assault, a fourth-degree

felony. The vast majority of the remainder, 100 to 150 annually, are being sentenced to prison for felonious assault, a first-degree felony, and a much smaller number, 10 to 30 annually, are being sentenced to prison for aggravated assault, a third-degree felony. We believe that the bill will extend the lengths of stay for those convicted of felonious or aggravated assault by eliminating their eligibility for earned credits, which reduce time served. However, the number of affected offenders and the number of earned credit days that would be lost will be small enough that the affect on DRC's annual incarceration costs will be minimal, and won't be experienced until around two years or so after the bill's effective date.

*Local Fiscal Effects.* County common pleas courts may experience a negligible increase in expenditures, resulting from the shifting of the responsibility for setting bail in these cases from clerks of courts to judges and magistrates.

□ *LBO staff: Laura Bickle, Budget/Policy Analyst*

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