

# Fiscal Note & Local Impact Statement

123<sup>rd</sup> General Assembly of Ohio

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BILL: S.B. 181 DATE: November 10, 1999  
STATUS: As Introduced SPONSOR: Sen. Spada  
LOCAL IMPACT STATEMENT REQUIRED: Yes  
CONTENTS: Makes various changes to juvenile law, including the addition of blended sentencing, direct sentencing to detention facilities, penalty enhancements for truancy, and expanded DNA specimen collection

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## State Fiscal Highlights

STATE FUND	FY 2000*	FY 2001	FUTURE YEARS
<b>General Revenue Fund</b>			
Revenues	- 0 -	Gain around \$3.2 million	Gain around \$3.2 million
Expenditures	- 0 -	Increase, around \$9.5 million	Increase, around \$8.7 million
<b>Crime Victim Reparations Fund (Fund 402)</b>			
Revenues	- 0 -	Negligible gain	Negligible gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2000 is July 1, 1999 – June 30, 2000.

\*Assumes effective date of 7/1/00.

- BCII will incur increases in one-time equipment expenditures due to DNA specimens being required of more convicted offenders than is currently the case, likely to total \$779,000 in FY 2001. Annual operating expenditures are expected to be \$3.8 million.
- DYS would incur approximately \$4.3 million in expenditures for operation and administration of about 88 additional offenders annually. DYS would also incur around \$1 million in annual debt service payments for 15 to 20 years on bonds issued for \$9.6 million in order to construct an addition to the Marion facility to accommodate these offenders.
- DYS would receive approximately \$3.2 million in revenue annually for charging counties under the RECLAIM formula to cover the costs of incarcerating additional offenders.
- DRC would likely experience a decrease in incarceration expenditures of up to \$352,000 annually, as some offenders who would currently be bound over are sanctioned in DYS facilities instead, under blended sentencing.
- DYS and DRC are likely to incur increases in expenditures, likely in the tens of thousands of dollars, in order to cover personnel costs associated with harvesting additional DNA specimens.



- There will be, at most, a negligible annual gain in locally-collected state court costs that are generated for the GRF and the Crime Victim Reparations Fund.

### **Local Fiscal Highlights**

<b>LOCAL GOVERNMENT</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FUTURE YEARS</b>
<b>Counties</b>			
Revenues	Negligible gain	Negligible gain	Negligible gain
Expenditures	Increase, up to \$7.6 million statewide, plus additional increases in the thousands or tens of thousands of dollars per county	Increase, up to \$15.1 million statewide, plus additional increases in the thousands or tens of thousands of dollars per county	Increase, up to \$15.1 million statewide, plus additional increases in the thousands or tens of thousands of dollars per county
<b>Municipalities</b>			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Increase, potentially in the thousands or tens of thousands of dollars per municipality	Increase, potentially in the thousands or tens of thousands of dollars per municipality	Increase, potentially in the thousands or tens of thousands of dollars per municipality

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

\*Assumes effective date of 7/1/00.

- Permissive language allows counties to directly sentence juvenile misdemeanants and felons to detention centers. LBO believes that many jurisdictions are already doing this, and that counties would generally have to make do with existing resources. If we were to assess the capital costs, however, they would involve a capital outlay of about \$20.1 million, with debt service payments of around \$2 million annually for 15 to 20 years. Additional annual operating costs would be around \$5.5 million, bringing the total to \$7.5 million in operating and capital payments.
- Counties will be charged approximately \$3.2 million annually under the RECLAIM formula to send approximately 88 offenders to DYS instead of to DRC, for which they currently are not charged.
- Under the DNA specimen collection provisions of the bill, each county jail would need to hire between one and two additional staff to collect additional specimens. LBO expects that this will increase expenditures in the tens of thousands of dollars annually for each county. LBO expects that the increases to counties could be up to \$4 million annually. Municipal jails are also anticipated to incur similar increases, but we are unable to quantify that cost at this time.
- Statewide costs to county juvenile courts to provide notice to schools of certain offenses are expected to be around \$400,000 annually.
- LBO believes that the offenders eligible for discretionary bindovers are essentially the same group of offenders who would become eligible to receive blended sentences under the bill. These offenders are currently afforded the right to jury trials in adult court, and would have received mental examinations under current law and practice. LBO does

not believe that these offenders would incur additional expenditures for counties for additional jury trials or examinations.

- The truancy and parental responsibility provisions of the bill will likely result in increases in expenditures, potentially in the thousands or tens of thousands of dollars per county. Under the bill, more truant juveniles would be charged delinquent than is currently the case, increasing prosecution, adjudication, and sanctioning costs. Parents or guardians may be found in contempt of court on an infrequent basis, minimally increasing expenditures for prosecution, adjudication, and sanctioning in these cases.
- Counties may experience increases associated with holding additional hearings for juveniles receiving blended sentences who violate the terms of their DYS commitments, and for those juveniles who successfully complete the terms of their commitments.
- Counties may experience minimal increases in expenditures associated with making juvenile records available to various interested parties and storing these records.
- Counties will likely receive negligible increases in fine revenue under the truancy and parental responsibility provisions of the bill.

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## ***Detailed Fiscal Analysis***

### ***INTRODUCTION AND ORGANIZATION***

This fiscal analysis is organized into the sections detailed below:

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LBO would like to emphasize that this fiscal analysis is a work in progress, and that revisions to this document are likely to be made in the future, as we hopefully acquire more information and insights. At this time, the fiscal picture that we have been able to draw has been limited by the nature of the available data and the lack of a consensus among the various stakeholders as to how the bill will shake out in practice. As a result, we have had to frequently rely on differing perspectives as to the bill's fiscal effects to establish a potential range of costs, and where possible, we have made out "best" estimate as to what a particular provision of the bill might cost the state and local governments.

### ***BLENDING SENTENCING***

Under existing law, certain juvenile offenders may appear in common pleas general division court under specified conditions. These appearances are known as mandatory and discretionary bindovers, and are described below.

*Mandatory Bindovers under Current Law.* Under existing law, a juvenile is automatically transferred to adult court for case processing if certain conditions are met, under Am. Sub. HB. 1 of the 121<sup>st</sup> General Assembly (enacted November 9, 1995). Initially, a complaint must be filed alleging that a child is delinquent for committing an act that would be a criminal offense if committed by an adult. The juvenile court must then conduct a hearing and transfer the case for criminal prosecution if the juvenile was 14 years old or older at the time of the commission of the offense, if there is probable cause to believe that the child committed the offense, and if one or more of the following apply:

- The child has previously been tried as an adult for the commission of an offense and pled guilty to or was convicted of that offense;
- The child is domiciled in another state, and, if the act charged had been committed in that jurisdiction, the child would have been mandatorily subject to criminal prosecution as an adult under the law of that jurisdiction;
- The child is charged with an act which would be a Category I offense<sup>1</sup> if committed by an adult, and either or both of the following apply: (a) the child was 16 years of age or older at the time of the commission of the offense; or (b) the child was previously adjudicated delinquent for committing an offense that would be a Category I offense or a Category II offense<sup>2</sup> if committed by an adult and was committed to DYS custody on the basis of that adjudication;
- The child is charged with an act that would be a Category II offense if committed by an adult and was 16 years of age or older at the time of the commission of the offense, and either or both of the following apply: (a) the child was previously adjudicated a delinquent child for the commission of a Category I or Category II offense and was committed to DYS upon the basis of that adjudication; or (b) the juvenile is alleged to have had a firearm on or about his/her

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<sup>1</sup> Category I offenses include: aggravated murder, murder, attempted murder, and attempted aggravated murder.

<sup>2</sup> Category II offenses include: voluntary manslaughter, felonious sexual penetration (under certain circumstances), aggravated arson, aggravated robbery, aggravated burglary, involuntary manslaughter (when the offense is an aggravated first-degree felony), rape (under certain circumstances), and kidnapping.

person or under his/her control and to have displayed the firearm in, indicated possession of the firearm in, or used the firearm to facilitate the commission of the offense.

Currently, relatively few juveniles are bound over to adult court. As shown in the table below, around three percent of all juvenile delinquents are bound over, and this percentage and the statistics below reflect numbers of all bindovers (mandatory plus discretionary).

<b>Table 1: Delinquents in Ohio Courts*</b>			
	<i>Year</i>		
	<i>1995</i>	<i>1996</i>	<i>1997</i>
<b><i>Adjudicated in Juvenile Court</i></b>	15,086	15,193	14,040
<b><i>Bound Over to Criminal Court</i></b>	420	440	470
<b><i>Total Cases</i></b>	15,506	15,633	14,510
* Information found in DYS' <i>Juveniles Waived to Criminal Courts in Ohio (1995-1997)</i>			

As shown in the table below, the vast majority of juvenile offenders who are bound over to adult court are convicted of the offenses in question. According to the DYS publication, *Juveniles Waived to Criminal Courts in Ohio (1995-1997)*, there was a conviction rate of over 90 percent for these offenders, and approximately 95 percent of those who are convicted were incarcerated, with remainder receiving probation or other sanctions. The majority of those juvenile offenders bound over to adult courts were convicted on Category II offenses.

<b>Table 2: Disposition of Bound Over Juveniles*</b>						
	<i>Calendar Year</i>					
	<i>1995</i>		<i>1996</i>		<i>1997</i>	
	Number	Percent	Number	Percent	Number	Percent
<b><i>Convicted</i></b>	380	93.6 %	403	96.0 %	413	93.9 %
<b><i>Not Convicted</i></b>	26	6.4 %	17	4.0 %	27	6.1 %
<b><i>Total</i></b>	406	100.0 %	420	100.0 %	440	100.0 %
* Information found in DYS' <i>Juveniles Waived to Criminal Courts in Ohio (1995-1997)</i>						

*Discretionary Bindovers under Current Law.* Under current law, it is possible to bind over certain juvenile offenders with discretionary bindovers. Generally, juvenile courts are authorized to bind over any juvenile accused of a felony who is at least age 14.

After a complaint has been filed that alleges that a juvenile is delinquent for the commission of a felony offense other than those covered under the mandatory bindover provisions in current law, a juvenile court may order the transfer of the case to adult court for criminal prosecution. The court must make the following *determinations*:

- The child was 14 years of age or older at the time of the commission of the offense;
- Probable cause exists to believe that the child committed the offense;
- After an investigation, including a mental examination, and after careful consideration of all relevant information and factors, there are reasonable grounds to believe that: (a) the child is not

amenable to care or rehabilitation in any facility for delinquent juveniles; and (b) the safety of the community requires that the child be placed under legal restraint, including, if necessary, for a period extending beyond the child's majority.

The court must also consider the following *factors* in favor of ordering the transfer of a case:

- A victim of the offense was five years of age or less, regardless of whether the alleged offender knew the victim's age;
- A victim of the offense sustained physical harm to their person as a result of the offense;
- The juvenile who is alleged to have committed the offense is alleged to have brandished a firearm in the commission of the offense, to have used a firearm to facilitate the commission of the offense, or to have clearly indicated that the juvenile possessed a firearm in the commission of the offense;
- The juvenile who is alleged to have committed the offense has a history indicating a failure to be rehabilitated following one or more commitments pursuant do division (A)(3), (4), (5), (6), or (7) of section 2151.355 of the Revised Code, the juvenile sentencing section;
- A victim of the offense was 65 years of age or older or permanently and totally disabled at the time of the commission of the offense, regardless whether the alleged offender knew the victim's age.

*Provisions of the Bill.* S.B. 181 includes provisions which allow judges to impose a "criminal inclusive" blended sentence. In "criminal inclusive" blended sentences, the presiding judge in common pleas court must give both a juvenile disposition and an adult sentence. The adult sentence, most likely to be served at DRC, would be stayed upon the offender's successful completion of the juvenile sentence, generally at a DYS institution. If the offender commits a new violation or violates institutional rules while in DYS custody, the adult portion of the sentence is invoked. As is currently the case for discretionary bindovers, the juvenile may also be directly sentenced to DRC.

Under the bill, a prosecutor may request that a juvenile be transferred to common pleas court if the juvenile meets the following requirements: (1) the juvenile is at least 14 years of age, and (2) the juvenile is accused of an offense that would be a felony offense of violence if committed by an adult. The juvenile court would be required to hold a hearing to determine if the offender shall be transferred to common pleas court. In doing so, the court must make *all* the following determinations:

1. The juvenile was at least 14 years old at the time of the offense;
2. There is probable cause to believe that the juvenile committed the offense in question;
3. After an investigation, including a mental examination of the child, the court determines that: the juvenile is not amenable to care or rehabilitation in any facility for delinquent juveniles, and community safety may require that the juvenile be under supervision beyond age 21.

The court must also consider the following factors as a conditions in favor of transfer:

- The victim was five years old or younger;
- The victim sustained physical harm;

- The offense is not carrying a concealed weapon, but the juvenile is alleged to have displayed, brandished, or indicated firearm use;
- The offender has had one or more commitments to a facility for delinquent children or to DYS;
- The victim was 65 years old or older, or permanently or totally disabled.

The court is required to give written notice of the hearing to the juvenile's attorney and to the juvenile's parents or guardian. If the case is transferred to the general division, the parents or guardian must attend all proceedings, upon penalty of contempt of court. If a parent or guardian is found in contempt, the general division court must hold a hearing, and may impose any of the following penalties under O.R.C. 2705.05:

- For a first offense, a fine not to exceed \$250, and/or a jail stay not to exceed 30 days;
- For a second offense, a fine not to exceed \$500, and/or a jail stay not to exceed 60 days;
- For a third or subsequent offense, a fine not to exceed \$1,000, and/or a jail stay not to exceed 90 days.

Based on LBO's discussions with juvenile court judges, we believe that parents or guardians generally would attend these hearings, and that local case processing and sanctioning costs associated with filing contempt of court charges on these persons would be minimal in most jurisdictions.

If the juvenile offender is transferred to common pleas court for a blended sentence and is found guilty, the court has the option to give the offender an adult sentence (as is currently the cases for discretionary bindovers), or the court may impose a juvenile disposition and suspend the adult portion of the sentence pending the successful completion of the juvenile sentence.

While serving the juvenile sentence at DYS, the offender may invoke the adult portion of the sentence by committing a new offense while in custody, violating a DYS disciplinary measure, or interfering with DYS rehabilitation programming of other children.

If the offender fails to meet the requirements of the juvenile sentence, the general division must conduct a hearing to determine whether to impose the adult portion of the sentence. The court must give notice to the juvenile's counsel and to the parents or guardians. If the adult portion of the sentence is invoked, then the offender shall receive credit for time served under the juvenile disposition. The court must also conduct such a hearing if the juvenile successfully completes the juvenile sentence, in order to terminate the conviction. These additional hearings would represent increases in expenditures for juvenile courts, which would likely vary by jurisdiction, due to variations in caseload.

In any event, a written finding must be made. If the court invokes the adult sentence, then the court must articulate (1) its reasons; (2) the adult sentence to be imposed; and (3) the facility at which the offender shall serve the sentence. The court is also given latitude to impose other orders of disposition with regard to the offender.

## ***JUVENILES LIKELY TO BE AFFECTED BY BLENDED SENTENCING***

Generally, under current law, juvenile offenders accused of a felony who are at least age 14 would be subject to discretionary bindovers, with certain qualifications. The overlap with the provisions of S.B. 181 and the existing provisions for discretionary bindovers exists to the extent that the pool of offenders for discretionary bindovers under current law would become the pool of offenders who, under the bill, would be subject to blended sentencing. These offenders are also subject to similar requirements for mental examinations and judicial determinations.

As we demonstrated earlier, there are typically between 400 and 500 juveniles annually who are bound over to criminal court. Based on DYS data from 1997, 470 juvenile offenders were bound over to adult court. This gives us a maximum number of offenders who would be subject to the bill's blended sentencing provisions in any given year.

DYS data indicates that the breakdown for juveniles bound over to adult court in the most recent year for which data is available (which LBO assumes is CY 1998) is as follows:

- 210 first-degree felons
- 83 second-degree felons
- 61 third-degree felons
- 41 fourth-degree felons
- 14 fifth-degree felons

Based on their experience with juvenile offenders, DYS assumes that the following proportion of offenders would not be bound over under the provisions of the bill, and would instead be placed in DYS facilities as the recipients of blended sentences.

- 10 percent of first-degree felony bindovers (or 21 offenders);
- 10 percent of second-degree felony bindovers (or 8 offenders);
- 25 percent of third-degree felony bindovers (or 15 offenders);
- 50 percent of fourth-degree felony bindovers (or 21 offenders);
- 100 percent of fifth-degree felony bindovers (or 14 offenders).

This works out to approximately 79 juvenile offenders annually who would go to juvenile court under the bill and receive blended sentences, when they would otherwise be bound over to common pleas court under current law. This assumes that all bindovers would be convicted. LBO believes that this is a reasonable assumption, as DYS data shows that bound-over juvenile offenders have a high conviction rate, between 94 and 96 percent.

## ***JURY TRIALS***

*Existing law.* Current law allows for any adult, 18 years of age or older, arrested under the Juvenile Code to demand a jury trial or the juvenile judge may call a jury for the arrested adult. Juveniles not being subject to adult sanctions are not afforded jury trial rights unless they are bound over to adult court to face adult charges in criminal court. These juvenile offenders, bound over to common pleas

general division court, are known as mandatory and discretionary bindovers. The procedures for requesting a jury trial and for impaneling a jury are similar to the procedures in a court of common pleas.

Currently relatively few juveniles are bound over to adult court. According to the DYS publication, *Juveniles Waived to Criminal Courts in Ohio (1995-1997)*, around three percent of all juvenile delinquents are bound over. At the time of this fiscal note writing, LBO could not determine the number of bound over juveniles that received a jury trial in common pleas courts.

*Provisions of the bill.* S.B. 181 includes provisions which allow judges to impose a “criminal inclusive” blended sentence. In “criminal inclusive” blended sentences, both a juvenile disposition and adult sentence are imposed on the juvenile offender. The common pleas court general division administers this blend. Therefore, the juvenile is facing an adult sentence and all rights granted to adults would be granted to the juvenile, which includes jury trials and adult competency rights.

Under the bill, the pool of offenders who would be subject to blended sentencing are basically the same pool of offenders for discretionary bindovers under existing law, who are currently able to avail themselves of jury trials if they wish. Therefore, the number of jury trials would most likely remain the same.

### ***MENTAL EXAMINATION***

*Existing Law.* Under current law, juvenile offenders with discretionary bindovers must have a mental examination as part of the court’s determination to transfer the case to adult court for criminal prosecution. In practice, most juvenile courts have a court psychologist to perform these mental examinations. If the court psychologist is unavailable for the mental examination of the juvenile, outside psychologist are used to fulfill the mental examination requirement.

*Provisions of the bill.* Under the bill, a prosecutor may request that a juvenile be transferred to common pleas court if the juvenile meets certain requirements. The juvenile court would be required to hold a hearing to determine if the offender shall be transferred to common pleas court. In doing so, the court must make specific determinations, one of which includes a mental examination of the child. This examination is to determine whether the juvenile is not amenable to care or rehabilitation in any facility for delinquent juveniles, and whether community safety may require that the juvenile be under supervision beyond age 21.

Under the bill, the pool of offenders who would be subject to blended sentencing are the same pool of offenders for discretionary bindovers under existing law. LBO assumes the number of mental examinations for juveniles subject to blended sentencing would most likely remain the same as the current discretionary bindover examination numbers.

## **DYS POPULATION PROJECTIONS AND CAPITAL IMPROVEMENTS**

### *Current State of DYS Population and Capital Improvements*

DYS' current average daily population is approximately 1,943, which puts it at about 127% of its rated institutional capacity of 1,531 beds. This represents an improvement over overcrowding prior to the implementation of RECLAIM. DYS representatives have maintained that DYS must continue to reduce capacity in order to come into compliance with national standards.

DYS is in the process of closing the Training Institute of Central Ohio (TICO), and opening a new facility in Marion, Ohio. TICO's original rated capacity was 196 beds, but this capacity has been reduced to 98 beds in recent years. The new facility at Marion will be opening with a rated capacity of 240 beds. Once TICO closes and Marion opens, DYS' rated capacity will increase to 1,673 beds, and the DYS system would be at 116% of capacity, as shown in Table 3 below, assuming all other conditions remain the same.

Assumptions	DYS Average Daily Population	Rated Capacity (Beds)	Percent of Capacity
<i>Current Status</i>	1,943	1,531	127%
<i>TICO Closes; Marion Opens</i>	1,943	1,673	116%

### *Effects of the Bill*

DYS estimates that, as a result of the bill, after stacking effects equalize around 2004, that their average daily population will increase by 88 offenders. DYS arrived at this estimate by examining repeat offender patterns among juvenile offenders currently bound over to the adult court system, and by applying certain assumptions based upon their work with juvenile offenders.

As stated in the blended sentencing portion of this analysis, approximately 79 juvenile offenders annually who would go to juvenile court under the bill, when they would otherwise be bound over to common pleas court. This assumes that all bindovers would be convicted. If these 79 offenders were to go to DYS, DYS estimates that this would work out to about 88 additional offenders when stacking effects are accounted for by FY 2004, and that 72 additional beds will be needed. DYS estimates

LBO believes that this estimate represents a reasonable expectation of the number of offenders that would be added to the DYS population, and subsequently removed from the DRC population.

*Capital Costs.* DYS believes that the 88 offenders would be served by a 72-bed addition to the new facility that DYS will be opening in Marion in 2000. Marion is currently under construction as a 240-bed facility, and DYS is in the process of closing the Training Institute of Central Ohio (TICO), which is currently operating at a capacity of around 98 beds. In response to the bill, DYS has suggested that it would plan to build three additional 24-bed units at Marion, for a total of 72 beds.

Marion was constructed at a cost of approximately \$133,000 per bed. Therefore, we assume that the pod of 72 beds can be built for approximately \$9.6 million (\$133,000 per bed x 72 beds = \$9,576,000). Annual debt service payments on bonds totaling \$9.6 million over 20 years would be \$941,685, for a total capital payment of \$18,833,701. Annual debt service payments on that amount over 15 years would be \$1,087,557 annually, for a total capital payment of \$16,313,362.

*Other Scenarios.* Other scenarios, based on varying population intake and available facilities are available. We briefly describe these options in terms of additional capital costs in Table 4 that follows. Not all of these options may be as feasible as the scenario presented by DYS, based on the undesirability of overcrowding and the current deteriorated condition of the TICO facility. For the sake of comparison, however, we have projected these options in terms of additional *capital* costs only.

**Table 4: DYS Population and Capital Improvements for Alternate Scenarios**

Assumptions	DYS Average Daily Population (ADP)	Rated Capacity (Beds)	Percent of Capacity	Bonds Issued	Annual Debt Service Payments	Total Capital Payment*
<i>ADP increases by 88; Marion opens; TICO closes; additional 72-beds added to Marion</i>	2,031	1,745	116%	\$9.6 million	\$1.8 million to \$1.1 million	\$16.3 million to \$18.8 million
<i>ADP increases by 88; Marion opens; TICO closes</i>	2,031	1,673	121%	-	-	-
<i>ADP increases by 88; Marion opens; TICO remains open with per-bed renovations equal to \$133,000 per bed</i>	2,031	1,771	117%	\$13 million	\$1.3 million to \$1.5 million	\$22.1 million to \$25.5 million

\*Assumes interest rate of 7.5 percent on 15- and 20- year bonds, respectively.

*Potential Savings to DRC.* LBO expects that DRC would experience some savings as a result of retaining some of these juvenile offenders in the juvenile system. Assuming that the current marginal cost of imprisonment of DRC inmates is approximately \$4,000 per offender per year, DRC may experience an annual decrease in incarceration expenditures of up to \$352,000 annually by 2004 (\$4,000 x 88 offenders annually shifted to DYS = \$352,000). However, these savings will likely be partially offset by expenditures incurred by some offenders who will violate DYS rules or reoffend while in DYS custody, causing them to be "switched" to DRC under the provisions of the blended sentence.

**RECLAIM ISSUES**

*RECLAIM Summary.* The RECLAIM Ohio (Reasoned and Equitable Community and Local Alternatives to the Incarceration of Minor) program, initiated statewide in FY 1995, provides to juvenile

courts the funding to develop community-based programs for juvenile offenders. In doing so, the program is intended to reduce the number of commitments to DYS institutions.

Funding is allocated to counties through a formula based on the proportion of statewide felony delinquent adjudications coming from each county. Each month, counties are debited 75 percent against a per diem allocation for youth placed in DYS institutions and 50 percent for youth placed in community corrections facilities. Any funds remaining after debits are made are remitted to the counties and provided to the juvenile court to support the development and operation of rehabilitation programs at the local level. Courts may use the funds to purchase or develop a broad-based spectrum of community-based programs for adjudicated felony delinquent youths who would otherwise have been committed to DYS. Such programs include: day treatment, intensive probation, electronic monitoring, home-based services, residential treatment reintegration, and transitional programs.

A contingency fund in the program, which represents up to five percent of the total RECLAIM allocation, allows the courts to commit youth to DYS or community corrections facilities, even if a county has exhausted its allocation.

The law also provides for a category of commitments called public safety beds, for which the counties are not debited. Public safety beds are provided for youth that are committed for very serious offenses, such as aggravated murder. Various safeguards are built into the system to ensure that the department will remain fiscally solvent, and counties will not be left out-of-pocket.

*Effects of the Bill.* The RECLAIM GRF line item, 470-401, is unusual in that it is used both to fund institutional operations as well as provide what amounts to conditioned subsidy payments to counties under the RECLAIM formula. By estimating the likely costs to counties for transferring offenders to DYS under the bill, we also conversely estimate the gains to DYS institutions for incarcerating these youth.

Based on estimates provided by the Department of Youth Services, LBO assumes that the DYS average daily population will increase by 88 offenders under the bill. LBO also assumes that these offenders are generally offenders who are currently bound over to adult court and ultimately sanctioned in DRC as discretionary bindovers. LBO assumes that counties are not currently charged under the RECLAIM formula for these offenders, as they are effectively treated as adults. As a result, the bill would incur increases in county expenditures associated with paying for these offenders to go to DYS instead.

LBO makes several assumptions throughout this analysis:

1. The number of public safety beds would remain the same as it is currently which LBO believes to be around 389 beds. The bill does not alter the calculation of public safety beds described in section 5139.01 of the Revised Code.
2. All offenders designated as serious youthful offenders and who would receive blended sentences under the bill are currently being sanctioned in DRC as bindovers, and that counties are not currently charged for these offenders who are charged as adults.

3. All offenders who would receive blended sentences under the bill would be committed to DYS custody, and DYS would charge counties 75% of the per diem rate for those offenders.
4. DYS' current per diem rate is around \$133. LBO believes that DYS currently takes 25 percent of the per diem rate off the top. This makes the maximum per diem amount that counties can keep if an offender is sanctioned locally about \$99.75 ( $\$133 \times .75 = \$99.75$ ). DYS requires this 25 percent of the per diem to administer the program.
5. No additional GRF dollars are added to the RECLAIM program.
6. DYS capacity remains at current levels.

Under the bill, DYS estimates that 88 additional offenders would be effectively transferred from the adult system to DYS. Currently, we assume that these offenders wind up in DRC as bindovers, and that counties are not charged for these. Presumably, counties would be charged at 75% against the per diem rate for these offenders to go to DYS. This would result in counties being charged \$3,203,970 by DYS to allow DYS to cover operating expenditures associated with incarcerating these juveniles (88 offenders x \$99.75 per diem x 365 days = \$3,203,970). Thus, the net annual loss to counties would be around \$3.2 million, and DYS would gain this amount for operating expenses related to the 88 additional offenders.

DYS would require 25% of the per diem to manage these additional offenders, as outlined in our fourth assumption above. This would result in about \$1 million in additional GRF expenditures on an annual basis ( $\$133 \times .25 = \$33.25$  and  $\$33.25 \times 88 \text{ offenders} \times 365 \text{ days} = \$1,067,990$ ).

*Other Possibilities.* GRF funds, equal to the amounts remitted by counties under the bill, could be added to the annual RECLAIM appropriation to hold counties and DYS fiscally harmless to these provisions of the bill. These GRF additions to the RECLAIM funding pool would likely be around \$4,271,960.

If DYS constructs additional facilities, it is likely that the per diem rate would either remain at \$133 per day or increase. If the per diem increases, then the loss to counties would be greater than described in this analysis. If DYS were to absorb the additional offenders at marginal costs without constructing new facilities, then the per diem rate would presumably decrease. If the per diem rate decreases, then the loss to counties would diminish.

## ***TRUANCY AND PARENTAL RESPONSIBILITY***

*Current Law.* Existing law provides a series of remedies for truancy. Under Revised Code section 3321.19, when a board of education determines that a student has been truant, and that the parent or guardian failed to cause the student to attend school, the board may require the parent or guardian to attend an educational program. Revised Code section 3313.663 permits board of education to create these education programs, and permits boards to adopt such policies to require parents or guardians to attend these programs.

Under Revised Code section 3321.38, a parent who fails to send a child to school may be required by the court to give bond in the sum of \$100, with sureties to the approval of the court, conditioned that the child will attend school as required by the compulsory school attendance statute (O.R.C. 3321.04). Violators of section 3321.38 are to be fined not less than \$5 or more than \$20.

If a parent or guardian is determined to have caused a child to be unruly through truant behavior, a parent may be found guilty of the offense of contributing to unruliness or delinquency, a misdemeanor of the first degree (O.R.C. 2929.24). Juveniles in some cases may also be charged as unrulies by being habitually or chronically truant. Under current law, truant juveniles can be adjudicated as unrulies, and a juvenile can be sent to a detention center after violating a court order to attend school. If a juvenile violates a court order, LBO assumes that a juvenile could, in rare cases, then be adjudicated delinquent.

*Provisions of the Bill.* The bill adds several definitions to truancy law, including definitions for habitual truants and chronic truants. Under the bill, a habitual truant has one or more of the following series of unexcused absences:

- 5 or more in 1 school week;
- 7 or more in 1 school month; or
- 12 or more in 1 school year.

A juvenile who is chronically truant has one or more of the following series of unexcused absences:

- 7 consecutive school days;
- 10 or more in 1 school month; or
- 15 or more in 1 school year.

Under the bill, a child who appears before juvenile court on a charge of habitual truancy and who previously has been adjudicated as a habitual truant may be charged as a delinquent. A juvenile found to be chronically truant is also subject to delinquency proceedings.

The bill makes several changes in definitions of delinquent and unruly children. Under existing R.C. 2151.02, a delinquent child includes the following:

1. A juvenile who violates any Ohio or U.S. law, or any ordinance or regulation that would be a crime if committed by an adult, except if the juvenile is a traffic offender;
2. A juvenile who violates any lawful order of a court;
3. A juvenile who purchases or attempts to purchase a firearm illegally; or
4. A juvenile who illegally obtains or attempts to obtain tattooing, body piercing, or ear piercing services.

The bill expands this definition to include:

5. A juvenile who is a habitual truant, and who previously has been adjudicated an unruly child for being a habitual truant; and
6. A juvenile who is a chronic truant.

Existing Revised Code section 2151.022 states that an unruly child includes the following:

1. A juvenile who does not subject him/herself to the reasonable control of parents, teachers, guardians, or custodians, by reason of being wayward or habitually disobedient;
2. A juvenile who is a habitual truant from home or school;
3. A juvenile who so him- or herself so as to injure or endanger the juvenile's own health or morals or those of others;
4. A juvenile who attempts to enter into marriage without consent of parents, custodian, legal guardian, or other legal authority;
5. A juvenile found in a disreputable place, visits or patronizes a place prohibited by law, or associates with vagrant, vicious, criminal, notorious, or immoral persons;
6. A juvenile who engages in a prohibited occupation or is in a situation dangerous or injurious to the juvenile's health or morals, or to those of others; and
7. A child who violates a law, other than purchasing or attempting to purchase a firearm, that is applicable only to juveniles.

The bill expands the second category to include a juvenile who is persistently truant from home, and then adds a category for a juvenile who is a habitual truant from school and who has not been previously adjudicated as an unruly child for being a habitual truant.

The bill facilitates filing of truancy charges jointly against juveniles and parents. In a case in which a juvenile is alleged to be habitually or chronically truant, and that a parent or guardian failed to cause the juvenile's attendance, the court must order the parent or guardian to appear at the hearing.

If the court finds that the parent or guardian failed to cause the juvenile to attend school, the court must hold a separate hearing to determine what sanctions are appropriate for the parent or guardian. The parent or guardian may be sentenced to community service if: (1) the juvenile is determined to be unruly through habitual truancy; (2) the juvenile is determined to be delinquent through chronic truancy; or (3) the juvenile is determined to be a second-time habitual truant. Criminal nonsupport charges may be filed against these parents if further incidents occur.

The bill also requires parents or guardians to attend court hearings regarding delinquents, unrulies, or juvenile traffic offenders. If the parent or guardian of the juvenile fails to attend, the parent or guardian may be charged with contempt of court. Courts would be required to hold additional hearings for these offenders.

The penalties for contempt of court are as follows:

- For a first offense, a fine not to exceed \$250, and/or a definite term of imprisonment not to exceed 30 days in jail;
- For a second offense, a fine not to exceed \$500, and/or a definite term of imprisonment not to exceed 60 days in jail;
- For a third or subsequent offense, a fine not to exceed \$1,000, and/or a definite term of imprisonment not to exceed 90 days in jail.

LBO expects that parents or guardians frequently attend court hearings regarding their children under current law. The bill may generate some additional contempt cases, especially in larger jurisdictions. However, we expect increases in expenditures to generally be minimal in most jurisdictions.

*Prevalence of Truancy and Fiscal Effects.* The Department of Education has indicated that truancy is a reasonably widespread problem. In any given year, the Department of Education estimates that approximately 4,000 juveniles are reported to their agency as truant. Additional cases likely do occur that are not reported to the Department of Education.

However, under existing law and practice, enforcement of truancy provisions has not been widespread or especially severe. Under existing law and the provisions of the bill, the onus of reporting truancy and bringing these cases to the attention of local prosecutors is still upon school boards. In many jurisdictions, LBO believes that currently relatively few parents of truant children are brought to the attention of prosecutors to face fine or imprisonment penalties currently. The bill permits persons other than school employees to bring truant juveniles and their parents to the attention of the court. By broadening the base of individuals who could report such activity, the bill will likely result in increased numbers of juveniles being found unruly or delinquent than is currently the case.

Some jurisdictions may experience more substantial increases in expenditures stemming from the provisions of the bill. For example, in Franklin County Juvenile Court, 1,298 cases involving truant juveniles were referred to that court in FY 1998. Of these cases, there were 339 formal filings, and in excess of 700 are pending while the court is attempting to resolve these issues with the families involved before filing charges.

Under current law, the parents of these juveniles could face fines of between \$5 and \$20, or up to six months' imprisonment or a fine up to \$1,000 as first-degree misdemeanants. Discussions with Franklin County Juvenile Court indicate that parents of truant juveniles are rarely charged with an offense; however, greater efforts are being made to charge these parents and bring them to court.

LBO expects that counties with higher caseloads would likely experience increases in expenditures associated with increased sanctioning costs for truant juveniles. However, LBO believes that school boards are generally reticent to bring charges and would prefer to work with parents for resolution, but the volume of cases reported to LBO by the Department of Education and Franklin County Juvenile Court suggests that the bill may increase sanctioning costs in a substantial number of cases. LBO believes that truant juveniles are generally declared unruly as status offenders, and may be

held in detention centers for up to 24 hours. LBO assumes that, by clarifying that this offense is a delinquency offense under the provisions of the bill, that counties may incur greater expenditures associated with sanctioning these juveniles more harshly than they otherwise may be able to do. LBO expects that these expenditures could extend into the thousands of dollars, depending on: caseload volume of the jurisdiction in question; willingness of schools to bring these cases to the attention of the court, and willingness of the court to seek alternative sanctions.

Under the bill, more populous jurisdictions may experience larger increases in expenditures, perhaps in the thousands of dollars, associated with adjudicating and sanctioning these juveniles. LBO assumes that the per diem cost of housing a juvenile offender in a detention center to be approximately \$100 per day, and it is likely that these costs could add up quickly in many jurisdictions.

### ***DETENTION PROVISIONS***

*Existing law.* Under existing law, juvenile judges do not have the legal ability to directly sentence juvenile offenders to detention centers for misdemeanor or felony level offenses. Juveniles who are alleged to be or have been adjudicated delinquent may be detained in a detention center after a complaint is filed in the detention center until final disposition of their cases, or in certified family foster homes for a period not exceeding 60 days or until final disposition of their cases, whichever comes first.

*Provisions of the Bill.* Under the bill, a juvenile who is adjudicated a delinquent may be committed for a specified period of time to a detention center. If the juvenile committed an act that would be a felony if committed by an adult, the juvenile court may commit the juvenile to the temporary custody of a detention center for a term not to exceed 90 days. If the juvenile committed an act that would be a misdemeanor if committed by an adult, the court may commit the juvenile to the temporary custody of a detention center for a term not to exceed 45 days.

Currently, detention centers have relatively fixed bed capacities. The Franklin County Juvenile Court reports that their detention center operates at capacity or over on a daily basis. LBO believes that the statewide detention center capacity is around 110 percent. There are some jurisdictions already using detention centers as sanctioning options for certain misdemeanor or felony level offenders. In these jurisdictions, judges are using creative sentencing techniques by sending juveniles to the detention centers for a 90-day evaluation period, when in fact, this period is a sanction for the juvenile offender. LBO assumes that in these jurisdictions the sentencing provision of the bill is codifying current practice for these juvenile judges.

For rural counties without detention centers, there may be a greater need to buy additional bed space from other counties. However, detention centers are operating at relatively fixed capacities, so sentencing for misdemeanor and felony level delinquents may not be a feasible option for rural county juvenile judges.

*Costs for additional detention beds.* Table 5 below reflects the Ohio Criminal Sentencing Commission's estimate for the number of additional juvenile detention beds for direct sentencing. This estimate makes a number of assumptions about expected length of stay and the proportion of the total misdemeanors that are certain kinds of offense. The estimate accounts for the average length of stay for

misdemeanant level offenses and not the maximum stay. Although this estimate was calculated for only misdemeanor level offenders serving 60 days, the results would most likely be similar for misdemeanants serving 45 days and felons serving 90 days in a detention center.

<b>Table 5: Ohio Sentencing Commission Detention Bed Estimate*</b>			
Offense	Percent of Misdemeanors*	Judges Survey**	Length of Stay (Days)
<i>Theft</i>	7.9% (6,241)	28% (1,806)	5.9 (10,659)
<i>Disorderly Conduct</i>	24% (19,276)	4.5% (8,693)	1.9 (16,517)
<i>Assault</i>	6.6% (5,214)	50% (2,635)	6.45 (17,000)
<i>Underage</i>	2% (1,580)	21% (333)	5.6 (1,869)
*Based on 79,000 juvenile misdemeanors annually			
**Juvenile Judges Survey, A Sentencing Commission Staff Report 1997			

Based on Table 5, the total number of days for direct sentencing detention beds would be approximately 46,045, which the Sentencing Commission determined to equal about 126 additional detention beds. For the juvenile traffic offender, it is estimated that approximately 24 more beds would be necessary. In total, the number of additional detention beds needed would be approximately 150 beds (126 beds + 24 beds).

Based on the average construction costs of recent detention centers and community correction facilities, the cost per detention bed would be approximately \$134,097. If we assume 150 additional beds would be necessary for direct sentencing, then we would estimate a statewide detention bed cost of around \$20.1 million (150 x \$134,097 = \$20,114,550). We can assume 7.5% debt service over 20 years would cost approximately \$1.97 million per year. The Department of Youth Services estimates the operating costs of a detention bed is approximately \$100/day, which for an additional 150 beds works out to be \$5.47 million in annual operating costs (\$100 x 365day/year x 150 beds = \$5.47 million).

In summary, if judges systematically use detention beds for misdemeanants and felons, regardless of the current full capacity of detention centers there would be costs associated with the need for more beds. The total annual capital and operating costs of 150 additional beds would be approximately \$7.44 million.

### **NOTICE TO SCHOOLS**

*Current Law.* Under current law, within ten days of a juvenile’s delinquency adjudication, the court must provide notice to the superintendent of a school system if the juvenile is at least 16 years old at the time of the offense, and the offense meets one of the following characteristics:

- The offense involves illegal conveyance or possession of a deadly weapon or dangerous ordinance on school premises;
- The offense involves carrying a concealed weapon committed on school premises;

- The offense was a drug trafficking or drug possession violation committed on school premises that is not a minor drug possession offense;
- The offense is one of the following, committed on school premises, if the victim is a school employee: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, aggravated assault, felonious assault, rape, or gross sexual imposition; or
- Complicity in any of the above.

*Provisions of the Bill.* Under the provisions of the bill, within 10 days of a juvenile's delinquency adjudication, the court must provide notice to both the superintendent of the school system and to the principal of the juvenile's school if the juvenile is at least 14 years old at the time of the offense, and the offense meets one of the following characteristics:

- The offense was a felony;
- The offense was an act of violence;
- The offender used or brandished a firearm;
- The offense was a misdemeanor sex offense (including corruption of a minor, sexual imposition, importuning, voyeurism, public indecency, soliciting, and prostitution);
- The offense was a misdemeanor for carrying a concealed weapon on school grounds;
- The offense was a misdemeanor for trafficking or possessing drugs on school grounds;
- or
- Complicity in committing any of the above.

Clearly, the provisions of the bill greatly expand the notification requirements in existing law. LBO believes that a large number of offenses would qualify for these notification provisions. According to 1995 Uniform Crime Report (UCR) data, the last year for which Ohio juvenile arrests were readily available to LBO for disaggregation, there was a grand total of 115,050 arrests of juveniles for the Part I and Part II arrests shown below. The 1995 UCR arrest data include a mix of felonies and misdemeanors, as shown in Table 1 below.

*Caveat.* The bill would only apply to adjudications, and not arrests, so it is likely that the numbers described below represent an overcount of the number of actual notices that would need to be generated. In 1995, the Ohio Courts Summary reported 90,188 new delinquency cases filed in juvenile courts statewide. For that same year, UCR data shows 115,050 total arrests. Based on this data, we then estimate that 78 percent of all juvenile delinquency arrests result in court filings ( $90,188 \div 115,050 = 0.784$ ). Beyond this, LBO assumes that juvenile court filings have a high successful prosecution rate, and that the vast majority of juvenile court filings will result in conviction. However, the numbers presented below are likely to represent a slight overcount that includes those offenders found not guilty by the court.

We also assume that these numbers represent an overcount, due to the fact that current law allows for some notifications to occur to superintendents of school districts, when certain offenses occur on school premises. According to the Bureau of Justice Statistics, in 1995, about 14% of incidents of violent crime on a national basis occur at school. Therefore, LBO reduces the number of incidents subject to the bill's notification provisions by 14 %, to arrive at a closer estimate of local cost.

**Table 6: 1995 UCR Data for Arrests of Ohio Juveniles**

*Number of cases included in LBO estimate*

<b>Offense</b>	<b>Number of Reported Cases</b>	<b>Approximate Penalty Equivalent</b>	<b>Low estimate</b>	<b>High estimate</b>	<b>Best estimate</b>
Murder	97	Felony	97	97	97
Rape	320	Felony	320	320	320
Robbery	1,814	Felony	1,814	1,814	1,814
Aggravated Assault	2,268	Felony	2,268	2,268	2,268
Burglary	4,602	Felony	4,602	4,602	4,602
Larceny*	16,331	Felony & Misdemeanor	0	16,331	3,103
Motor Vehicle Thefts	3,004	Felony	3,004	3,004	3,004
Arson	524	Generally felony	524	524	524
Other assaults	9,628	Generally felony	9,628	9,628	9,628
Forgery and counterfeiting*	245	Felony & Misdemeanor	0	245	47
Fraud*	96	Felony & Misdemeanor	0	96	17
Embezzlements*	12	Felony & Misdemeanor	0	12	2
Having stolen property**	3,060	Felony & Misdemeanor	0	3,060	2,662
Vandalism	4,631	Felony	4,631	4,631	4,631
Weapons***	1,726	Felony & Misdemeanor	0	1,726	1,001
Prostitution/Vice	45	Generally misdemeanor	45	45	45
Sex offenses	541	Generally felony	541	541	541
Drug abuse+	6,541	Felony & Misdemeanor	0	6,541	4,710
Drug possession+	4,782	Felony & Misdemeanor	0	4,782	3,443
Gambling	117	Misdemeanor	0	0	0
Offenses against family++	3,788	Felony & Misdemeanor	3,788	3,788	3,788
DUI	586	Generally misdemeanor	0	0	0
Liquor law violations	5,661	Misdemeanor	0	0	0
Drunkennes	586	Misdemeanor	0	0	0
Disorderly conduct	6,193	Misdemeanor	0	0	0
Vagrancy	70	Misdemeanor	0	0	0
All other except traffic +++	25,000	Felony & Misdemeanor	0	25,000	12,500
Suspicion	142	Felony & Misdemeanor	0	142	0
Curfew	9,750	Misdemeanor	0	0	0
Runaway	7,612	Misdemeanor	0	0	0

Total Arrests:	115,050	27,474	89,197	58,747
Total Likely Court Filings: #	89,739	21,430	69,574	45,823

\*In Franklin County in 1997, there were 773 felony theft cases and 3,254 misdemeanor thefts, for a total of 4,027.

If we then assume that this proportion applies to juvenile theft and fraud offenses, then approximately 19% of all thefts and frauds are felonies.

\*\*In Franklin County in 1997, there were 1,274 felony receipts of stolen property and 187 misdemeanor charges, for a total of 1,461. If we apply the same logic, then 87% of receipts of stolen property should be felonies.

\*\*\*In Franklin County in 1997, there were 424 felony charges of carrying concealed weapons and 304 misdemeanor charges, for a total of 728. Therefore, 58% of these offenses are estimated to be felonies.

+ In Franklin county in 1997, there were 2,922 felony drug abuse charges and 1,123 misdemeanor charges, for a total of 4,045 drug abuse charges. Therefore, 72% of drug abuse charges should be felonies.

++ Includes domestic violence.

+++ LBO decided to split this miscellaneous category by 50% for the final estimate.

# Based on 78% court filing rate.

*Low Estimate of Affected Cases.* LBO's low estimate of affected cases only includes those available offense categories that are *entirely* comprised of felonies. The low estimate, which likely represents a gross undercount of affected cases because it excludes many felonies and misdemeanors, is approximately 21,430 cases annually statewide.

*High Estimate of Affected Cases.* LBO's high estimate of affected cases includes those available offense categories that include *any* felony offenders. This count likely represents a gross overestimation of the number of cases addressed by the bill, because it includes many misdemeanor arrests not covered by the bill. The high estimate is approximately 69,574 cases annually statewide.

*LBO's Best Estimate.* LBO's best estimate attempts to take into account the proportion of offenses in each category, which are likely to be felonies and misdemeanors. LBO has reviewed the 1997 Franklin County Municipal Court report, which shows breakdowns of the numbers of felonies and misdemeanors for theft, receipt of stolen property, concealed weapons, and drug abuse. LBO then applied these proportions to the UCR offense categories, providing us with a more likely estimate of around 46,000 cases that would fall under the notification provisions of the bill annually statewide.

*Cost for Processing Notifications.* In 1993, the Ohio Criminal Sentencing Commission estimated the cost of notifications from courts to eligible victims under the adult court system. At that time, they estimated the cost of one notification to be \$2.50, which included staff and postage costs. LBO adjusted this figure to reflect inflation using a GDF deflator, and determined that the cost of one notification in 1999 dollars would be \$4.62. LBO would like to emphasize that the \$4.62 estimate used in this analysis is a rough estimate, and that the actual cost of providing notification will vary from jurisdiction to jurisdiction. This estimate also assumes that one notification letter will be sent per offender independently of all others. In practice, courts may consolidate these notices in weekly reports, or may accomplish these notifications in other, less costly manners.

If we assume that 46,000 cases would fall under the notification provisions of the bill, then we might estimate a statewide notification cost of around \$212,520 (46,000 x \$4.62 = \$212,520). However, as stated above, existing law allows for notification to superintendents of school districts of certain crimes. If we assume that 14 percent of these cases already require notification of superintendents, then we arrive at an estimate of around \$183,000 (46,000 x 0.14 = 6,440 and 46,000 - 6,440 = 39,560, so 39,560 x \$4.62 = \$182,767).

The bill requires notification of district superintendents *and* principals of the school in which the offender is enrolled (for the purpose of this analysis, we assume that all offenders are enrolled in school). Therefore, two notifications are required. First, we assume an additional notification to principals for cases in which superintendents are currently notified, at a cost of around \$30,000 (6,440 current notifications x \$4.62 = \$29,752). Then, we must assume two notifications for the principals and superintendents of juveniles who are currently not subject to notification requirements, at a cost of around \$366,000 (\$182,767 for the cost of one notice per offender x 2 = \$365,534). If we add these two figures together, the maximum statewide cost for these notifications would be around \$396,000.

LBO would like to emphasize that the estimate of up to \$396,000 in expenditures is a maximum potential expenditure for courts, based on the following assumptions:

- We assume that all offenders charged will be convicted;
- We assume that all offenders are enrolled in school; and
- We assume that each notice will be processed and sent separately to principals and superintendents by U.S. mail.

LBO believes that costs associated with this provision may be partially mitigated by mass mailings, by mailing weekly lists to affected school districts, and by the possibilities of using existing personnel.

### ***VICTIM'S ACCESS TO RECORDS***

*Existing Law.* Current law allows a victim, or a member of the victim's family, to have access to a juvenile's record if the names are stated in the file as being the victim or the victim's family member. This access is limited to only those parties that are named in the case.

*Provisions of the Bill.* The bill enacts a new provision that specifies that a person who is identified as the victim of a delinquent act, or a member of the victim's family, may inspect all arrest and custody records pertaining to the delinquent act. These records include all general court records, including, but not limited to, complaints, journal entries, and hearing summaries that pertain to the delinquent act.

LBO assumes this provision will minimally impact the county clerk of courts and prosecutor offices by creating an increased workload for the administrative staff to administer these juvenile records for victim's access. Most courts are currently set up to deal with public requests and record inquires. In addition, under current law, a judge needs to sign a release of information for those parties not specifically named in the case; under the provisions of the bill, this step would no longer be necessary for the victim or their family member to get access to the record.

### ***LAW ENFORCEMENT INSPECTION OF RECORDS***

*Existing Law.* Current law specifies that, two years after the termination of any order made by a juvenile court or two years after the unconditional discharge of a person from DYS or another institution, the court that issued the order must do one of the following: (1) if the person was adjudicated

an unruly child, order their record to be sealed, or (2) if the person was adjudicated a delinquent child or a juvenile traffic offender, either order the record of the person sealed or send the person notice of their right to have the record sealed. To “seal a record” means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records and that is accessible only to the juvenile court.

The inspection of sealed records, under existing law, is only permitted by the court upon the application by the person who is the subject of the sealed record.

*Provisions of the Bill.* Under the bill, in addition to inspection by the persons named in the record, if the records in question pertain to an act that would be a felony offense of violence if committed by an adult, any law enforcement officer or any prosecutor, may inspect the records that have been ordered sealed for any valid law enforcement or prosecutorial purpose.

Currently, BCII and the local courts have either electronic or copied access to juvenile sealed records. LBO assumes the bill will result in additional minimal expenditures for BCII and local courts due to the administrative burdens of law enforcement inspection of specific sealed records.

### ***RECORDS MISCELLANY***

*Current Law.* Existing law requires juvenile courts to maintain detailed records of cases heard in juvenile courts. Each week, every juvenile court must report to BCII a summary of felony adjudications. Clerks of courts are further required to compile annual reports including the following: number of complaints, offenses of violence, certain victim information, complaints resulting in commitments to DYS or to other youth facilities, and those complaints transferred to adult court for criminal prosecution (bindovers).

*Provisions of the Bill.* Juvenile courts are required, under the bill, to keep statistics, including the number of cases transferred to common pleas courts for blended sentencing. As juvenile courts are currently collecting and reporting information on dispositions and bindovers, LBO assumes that reporting mechanisms are currently in place that would allow this, and that collection and reporting of this data would likely result in minimal cost to county juvenile courts.

The bill requires juvenile courts to maintain arrest and custody records, complaints, journal entries, and hearing summaries. Juvenile courts are also required to keep arrest and custody records at least 3 years beyond the case’s final disposition. LBO believes that most juvenile courts are currently in compliance with this provision. Those that are not in compliance could incur some minimal expenses for storage of these records.

### ***DNA SPECIMEN COLLECTION***

*Current Law.* Under existing law, a juvenile offender who is adjudicated delinquent for committing any of the following acts and who is committed to DYS or other facility for delinquent children must submit to a DNA specimen collection procedure. The same applies to adults who are committed to DRC or to county or municipal jails.

- Aggravated murder, murder, kidnapping, rape, sexual battery, corruption of a minor, gross sexual imposition, aggravated burglary, or felonious sexual penetration;
- An attempt to commit rape, sexual battery, corruption of a minor, gross sexual imposition, or felonious sexual penetration;
- Violation of any law that arose out of the same circumstances and same act as did a charge against the offender of committing aggravated murder, murder, kidnapping, rape, sexual battery, corruption of a minor, gross sexual imposition, felonious sexual penetration, or aggravated robbery that was dismissed or amended;
- Abduction or interference with custody (child stealing).

Under existing law, it is the responsibility of the facility that receives the offender to perform the DNA specimen collection, using a kit obtained from the Bureau of Criminal Identification and Investigation (BCII), and to forward the information to BCII not later than 15 days after the collection date.

*Provisions of the Bill.* The bill expands the list of offenses that would trigger DNA specimen collection for both juveniles and adults to include the following:

- Voluntary manslaughter, involuntary manslaughter, felonious assault, assault, abduction, extortion, aggravated arson, arson, aggravated robbery, robbery, and burglary;
- Violations of any law arising from the same circumstances as did the charge against the offender from committing any of those offenses that previously was dismissed or amended.

*Number of Cases.* The DNA specimen collection provisions of the bill could potentially affect a large number of cases, because it applies to both adult and juvenile offenders. Tables 7 and 8 that follow below show for juveniles and adults, respectively, known commitments, adjudications, and arrests for the above offenses for the most current available years.

There are several limitations to this data:

- Commitments to DYS and DRC represent incomplete data because many of the offenders covered by the bill will not be sentenced to DYS or DRC institutions. Many, especially the majority of the misdemeanor assault offenders affected by this bill, will end up in county detention facilities or jails. Commitment data excludes these misdemeanor and low-level felony offenders. Using commitment data to base our estimate of the additional number of DNA specimens that would be collected under the bill would result in a significant undercount.
- Adjudication data for juveniles shows the number of juveniles adjudicated delinquent for committing felony offenses. This estimate is superior to the commitment data, because it captures lower-level fourth- and fifth-degree felony offenders that would not be committed to DYS. This data still does not provide us with a complete picture because it does not include qualifying misdemeanor offenses, such as assault.

- Statewide adjudication data was unavailable for adults. LBO used charge data from the Franklin County Municipal Court Report, and generalized these charges statewide. According to U.S. Census data, Franklin County represents approximately nine percent of the total state population, and essentially divided the Franklin County numbers by .09 to arrive at our estimates. Of course, this assumes that Franklin County charging practices are the same statewide. According to data collected by the Office of Criminal Justice Services, we were able to estimate that approximately 70 percent of charges filed result in convictions, and we multiplied the estimated grand total offenses by 70 percent to arrive at a rough conviction rate.
- Arrest data is presented for Calendar Year 1995, the last year for which disaggregated data was readily available. There are two problems inherent in using this arrest data: (1) the arrest data does not include many offense categories that are included in the bill, and is therefore incomplete; and (2) the bill would only apply to convicted offenders, and the arrest data clearly represents an overcount of affected offenders in the categories that are available.

Based on this data, LBO assumes that about 54,000 offenders would be affected annually by the bill's DNA specimen collection provisions (which roughly equals juvenile adjudications plus our estimate of adult convictions from adult charges filed).

**Table 7: DNA Specimen Collection for Juveniles**

<i>Offense</i>	<i>DYS FY 99 Commitments</i>	<i>FY 1998 Adjudications*</i>	<i>CY 1995 Arrests**</i>
Involuntary manslaughter	8	12	-
Felonious assault	97	368	-
Attempted felonious assault	12	-	-
Assault	68	232	9,628
Abduction	-	9	-
Extortion	-	9	-
Arson	-	151	524
Aggravated arson	-	53	-
Robbery	118	396	1,814
Aggravated robbery	58	145	-
Burglary	323	1,708	4,602
Attempted burglary	25	-	-
<b>Total:</b>	<b>709</b>	<b>3,083</b>	<b>16,568</b>

\*Includes felony adjudications only.

\*\*Includes misdemeanor and felony offenses. Assault category includes simple and other assaults, excluding aggravated assault.

*Effects on Local Government.* The bill would require a DNA sample to be taken during intake procedures at DRC institutions, DYS facilities, county and municipal jails, and county juvenile detention facilities. Counties and municipalities would incur some increases in expenditures associated

with taking these DNA samples and forwarding this information to BCII. Under current law and practice, BCII provides DNA kits, as well as postage to return the kits to BCII. As these are blood tests, they must be conducted by medical professionals. Discussions with the Buckeye Sheriffs' Association, the DNA provision of the bill would result the in addition of at least 1-2 medical personnel per county. LBO believes that county and municipal jails will experience increases in expenditures, likely in the tens of thousands of dollars, primarily through personnel costs. If we assume that each county would average 1.5 positions, at an annual cost of \$45,000, then the statewide annual expenditures to counties could be as much as \$4 million ( $\$45,000 \times 88 = \$3,960,000$ ).

Many misdemeanor assault offenders currently do not spend time in jail upon conviction, and would not be included in the formal intake process during which specimens would ordinarily be taken. Additional administrative expenditures are also likely to arise through finding a way to recall these offenders to the court or to a detention facility to take these specimens.

**Table 8: DNA Specimen Collection for Adults**

<i>Offense</i>	<i>DRC CY 97 Commitments</i>	<i>CY 1998 Charges Filed*</i>	<i>CY 1995 Arrests**</i>
Involuntary manslaughter	159	67	-
Attempted involuntary manslaughter	1	-	-
Felonious assault	619	4,800	-
Attempted felonious assault	159	-	-
Assault	276	59,722	36,939
Abduction	41	233	-
Attempted Abduction	18	-	-
Extortion	5	11	-
Attempted Extortion	1	-	-
Arson	63	278	537
Attempted aggravated arson	42	-	-
Aggravated arson	27	422	-
Robbery	478	2,678	3,861
Attempted robbery	450	-	-
Aggravated robbery	522	1,878	-
Attempted aggravated robbery	48	-	-
Burglary (including attempts)	1,189	3,188	7,246
Attempted burglary	-	-	-
<b>Total:</b>	<b>4,098</b>	<b>73,277</b>	<b>48,583</b>
<b>Assuming 70% conviction rate:</b>		<b>51,294</b>	

\*Statewide estimate of charges filed, based on Franklin County Municipal Court data.

\*\*Includes misdemeanor and felony offenses. Assault category includes simple and other assaults, excluding aggravated assault.

*Effects on BCII.* Currently, BCII provides DNA specimen kits to DRC, DYS, and local jails and detention facilities. The Attorney General's Office (AGO) has informed LBO that they currently receive approximately 2,500 samples annually, for the offenses included in existing law.

An additional 50,000 or more specimens would represent an increase in operating expenditures in the millions of dollars annually. Assuming that BCII would be required to process approximately 50,000 specimens annually, AGO estimates that BCII would incur \$779,000 in one-time equipment costs, and \$3.8 million annually for DNA kits, an additional 24 to 30 staff, and other supplies.

*Effects on DYS and DRC.* Given the volume of additional cases, LBO expects that these two agencies would incur increases in expenditures, likely in the tens of thousands of dollars, for medical personnel to extract specimens during the intake process. DYS estimates that they would require approximately one full time position, and one part-time medical position in order to fulfill the provisions of the bill. DRC believes that they can meet the requirements of the bill using existing staff, with a minimal increase in expenditures. The total personnel impact for these custodial agencies could easily range from the tens of thousands of dollars.

## ***SUMMARY OF STATE AND LOCAL FISCAL EFFECTS***

Below, we attempt to summarize our estimate of the fiscal the effects of the major provisions of the bill on units of state and local government.

### ***Summary of State Fiscal Effects***

- BCII will incur some increases in personnel and equipment expenditures due to DNA specimens being required of more offenders than is currently the case. According to a representative of the Attorney General's Office, these increases are likely to include \$779,000 in one-time equipment costs, in addition to annual operating expenditures of \$3.8 million.
- According to LBO's calculations, DYS would incur approximately \$4.3 million annually in expenditures for incarceration and administration of about 88 additional offenders annually.
- DYS would receive approximately \$3.2 million in revenue from counties under the RECLAIM formula to cover the costs of incarcerating about 88 additional juvenile offenders annually.
- DYS would incur around \$1 million in annual debt service payments over 15 to 20 years on bonds totaling for \$9.6 million in order to construct an additional beds at the Marion facility.
- DRC would likely experience a decrease in incarceration expenditures of up to \$352,000 annually as some offenders who would currently be bound over are sanctioned in DYS facilities instead, under blended sentencing.
- DYS and DRC are likely to incur increases in expenditures, likely in the tens of thousands of dollars, in order to cover personnel costs associated with harvesting additional DNA specimens.

- BCII may incur some additional minimal administrative expenditures associated with making sealed records available to law enforcement.
- There will be, at most, a negligible annual gain in locally-collected state court costs that are generated for the GRF and the Crime Victim Reparations Fund through the parental responsibility and truancy provisions of the bill.

### *Summary of Local Fiscal Effects*

- Permissive language allows counties to directly sentence juvenile misdemeanants and felons to detention centers. LBO believes that many jurisdictions are already doing this, and that counties would generally have to make do with existing resources. If we were to assess the capital costs, however, they would involve a capital outlay of about \$20.1 million, with debt service payments around \$2 million annually. Additional annual operating costs would be around \$5.5 million, bringing the total to \$7.5 million in operating and capital payments.
- Counties will be charged approximately \$3.2 million annually under the RECLAIM formula to send approximately 88 offenders to DYS instead of to DRC, for which they currently are not charged.
- Under the DNA specimen collection provisions of the bill, each county would need to hire between one and two additional staff to collect additional specimens. LBO expects that this will increase expenditures in the tens of thousands of dollars annually for each county, with statewide county expenditures of up to \$4 million annually. Municipal jails will also experience increases in expenditures due to requiring additional personnel, which will likely represent increases in the tens of thousands of dollars for those entities.
- Statewide costs to county juvenile courts to provide notice to schools of certain offenses are expected to be around \$400,000 annually.
- LBO believes that the offenders eligible for discretionary bindovers are essentially the same group of offenders who would become eligible to receive blended sentences under the bill. These offenders are currently afforded the right to jury trials in adult court, and would have received mental examinations under current law and practice. LBO does not believe that these offenders would incur additional expenditures for counties for additional jury trials or examinations.
- The truancy and parental responsibility provisions of the bill will likely result in increases in expenditures, potentially in the thousands or tens of thousands of dollars per county. Under the bill, more truant juveniles would be charged delinquent than is currently the case, increasing prosecution, adjudication, and sanctioning costs. Parents or guardians may be found in contempt of court on an infrequent basis, increasing expenditures for prosecution, adjudication, and sanctioning in these cases.

- Counties may experience increases in expenditures associated with holding additional hearings for juveniles receiving blended sentences who violate the terms of their DYS commitments, and for those juveniles who successfully complete the terms of their commitments.
- Counties may experience minimal increases in expenditures associated with making juvenile records available to various interested parties and storing these records.
- Counties may receive negligible amounts of additional fine revenue under the truancy and parental responsibility provisions of the bill.

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