Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Sub. H.B. 130** DATE: **April 14, 2008**

STATUS: **As Reported by House Criminal Justice** SPONSOR: **Reps. White and Yates**

LOCAL IMPACT STATEMENT REQUIRED: **No — Permissive**

CONTENTS: **Corrections and post-release control modifications**

State Fiscal Highlights

STATE FUND	FY 2009 – FUTURE YEARS
Department of Rehabilitation and Correction (DRC)	
Revenues	Potential gain from federal forfeiture proceeds, annual magnitude uncertain and sporadic
Expenditures	Factors increasing and decreasing costs, with potential for $1 million-plus in annual savings
Department of Youth Services (DYS)	
Revenues	No discernible annual effect
Expenditures	Factors increasing and decreasing costs, with likely net minimal effect

Note: The state fiscal year is July 1 through June 30. For example, FY 2009 is July 1, 2008 – June 30, 2009.

- ***Department of Rehabilitation and Correction (DRC).*** Relative to the duties and responsibilities of DRC, the bill contains a broad mix of provisions designed to strengthen reentry and community sanctions, reduce state operating costs, and streamline state administrative practices and procedures. The net effect of these provisions appears to create an opportunity for DRC to reduce its annual operating costs by an estimated $1 million or so annually.

- ***Department of Youth Services (DYS).*** The bill makes a number of procedural and other administrative changes involving the Department of Youth Services that, as a group, are expected to create certain operational efficiencies and possibly some minor expenditure increases. From LSC fiscal staff's perspective, the net effect of this mix of savings and costs is likely to be minimal, meaning that the total change in DYS expenditures is estimated at less than $100,000 per year.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2008 – FUTURE YEARS
Counties	
Revenues	Expedited collection and use of probation fees
Expenditures	Potential jail and pre-trial diversion cost increases, magnitude function of permissive authority exercised by county sheriff and prosecutor, respectively

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

- ***Probation revenues.*** The bill will not generate any additional probation fee revenue, but will permit counties to exercise more local control over its collection and use.

- ***County expenditures.*** The bill permits the county sheriff and prosecutor to take certain actions that would most likely increase the operating expenses associated with jails and pre-trial diversion programs, respectively. Presumably, either county official could control the annual magnitude of any such costs by choosing the timing and manner in which the permissive authority provided by the bill is utilized.

Detailed Fiscal Analysis

The bill contains a broad mix of provisions designed to strengthen reentry and community sanctions, reduce state operating costs, and streamline state administrative practices and procedures. Most of the provisions in the bill coagulate to create a rather complicated mix of costs and savings for both the state, in particular the departments of Rehabilitation and Correction and Youth Services. Additionally, there are provisions that potentially generate significant local costs, in particular for counties, but the language is worded generally in a manner that appears to give local authorities considerable discretion in the timing and magnitude of those costs. For purposes of this analysis, the fiscally relevant provisions of the bill can be organized into the following general categories:

I. Strengthening offender reentry.

II. Reducing risk factors and containing costs.

III. Streamlining and improving administrative functions.

I. Strengthening offender reentry

For the purposes of this fiscal analysis, the bill's more notable provisions designed to enhance the success of offender reentry following a term of incarceration are discussed in more detail below.

Offender supervision

The bill authorizes a court of common pleas to cooperate with the Department of Rehabilitation and Correction (DRC) in the supervision of offenders who return to the court's territorial jurisdiction upon release from the prison system. This provision essentially codifies existing practice as DRC's Adult Parole Authority (APA) already provides post-release supervision services to 50-plus counties. From DRC's perspective, as additional counties seek assistance from the APA, this provision will facilitate future cooperation.

Legal identification

The bill seeks to improve the process of providing inmates with some form of legal identification before their release from incarceration. Much of this involves improvements to, and codification of, existing practices. Under the bill, DRC will pay the costs of obtaining the identification rather than the inmate who must pay under current law. As not every inmate that is released requires a new form of identification, the Department does not anticipate this provision of the bill creating a large additional ongoing expenditure. Departmental personnel indicated that it should be easily absorbed into the everyday cost of doing business.

Occupational licensure

The bill attempts to eliminate certain prohibitions to employment that are commonly believed to hinder the successful reentry of inmates. More specifically, the bill seeks to address professional licensing boards that will either not issue licenses to former inmates, or treat such offenses as grounds for professional discipline. The bill generally eliminates a felony or misdemeanor conviction as grounds for discipline by an occupational licensing board, commission, or agency.

Based on information provided by DRC, it appears that, based on the current composition of the inmate population, around 500 inmates would be directly affected by this provision. Presumably, any additional work and related expenses generated for any occupational licensing or regulatory entity would be offset to some degree by licensing and related fees.

Reentry coalition

The bill contains a provision to create an ex-offender reentry coalition with 15 members, to be chaired by the Director of DRC, representing a broad spectrum of state government. The state officials are to serve without compensation. The bill requires the coalition to identify and examine social service barriers and other obstacles to successful reentry, and to provide the General Assembly with an annual review of these barriers affecting inmate reentry. The bill does contain a sunset provision under which the coalition would cease to exist after December 31, 2011. DRC has indicated it will provide the office space and support staff for this coalition, and can absorb any expenses into their ongoing daily cost of doing business.

II. Reducing risk factors and containing costs

For the purposes of this fiscal analysis, the bill's more notable provisions designed to reduce risk factors and contain costs are discussed in more detail below.

Short-term prison sentences

Under current law, a county sheriff must deliver a convicted felon, sentenced to a term of imprisonment, within five days after sentencing. In many cases, jail time counts toward the prison sentence. As such, many offenders arrive at a DRC reception center with very little time left on their sentences. Under the bill, the sentencing court, the county sheriff, and DRC may agree to electronically process convicted felons with less than 30 days remaining on their prison sentences instead of having the county sheriff physically transporting such individuals for processing into the state prison system.

The Department has indicated that: (1) the average cost of processing a new inmate at a reception center is about $200 and $700 for male and female inmates, respectively, and (2) the number of new inmates processed each month totals around 2,400, about 20 of which are released within 30 days of admission. If these 20 inmates each month can remain in the custody of the county, it will save the Department the associated processing cost, an amount that could be in the range of $4,000 to $14,000 each month depending on the mix of male and female inmates electronically processed.

Presumably, if certain inmates are held locally rather than transported to the state prison system to finish their term of incarceration, the local facility continues to incur the costs of incarcerating said individuals until their release. Since these inmates would not have to be physically transported to a DRC reception facility, a county sheriff may realize some transportation-related cost savings. In addition, the agreement between DRC and a county sheriff to electronically process certain inmates is permissive. If local correctional facilities are essentially filled to capacity, and beds need to be made available, then a county sheriff could still transport convicted inmates that might otherwise be covered by an agreement to DRC reception facilities as directed under current law.

Medical release

The bill streamlines the process for obtaining the medical release of an inmate facing serious illnesses. There is a procedure under current law for the release of inmates in imminent danger of death within six months. This process, however, tends to be procedurally time consuming and the inmate often dies before the release is granted. DRC estimates that such a streamlined program would affect between 20 and 50 inmates annually and could save over $1 million in operational expenditures. Depending on the medical condition of the inmate and the specific treatment regimen required, streamlined release procedures could save the Department even more in medical expenditures.

Judicial release

Under current law, certain eligible offenders may apply to the sentencing court for release from prison ahead of schedule. The bill streamlines the procedures and changes the eligibility requirements to generally improve the efficiency of the judicial release program. The Department estimates that these clarifications and changes could annually divert approximately 100 additional offenders from prison into community sanctions. As more offenders are diverted into community sanctions, prison beds turn over much more quickly and fewer inmates remain in prison. The Department estimates this provision could produce approximately $200,000 in annual savings.

Pre-trial diversion programs

County prosecutors can, under current law, establish pretrial diversion programs for offenders charged with minor offenses and who are unlikely to re-offend. The law authorizing such a program contains many groups of offenders that are not eligible due to the severity of the offense and the likelihood of re-offending. The bill eliminates drug-dependent individuals from the list of persons that are exempt from the pretrial diversion program. The net effect of this provision will be to divert certain drug use offenders from the state prison system presumably making them available for various drug intervention programs as a sentencing alternative. The cumulative fiscal effect of these county pretrial diversions would be to ultimately reduce expenditures of the state prison system.

Post-release control

The bill makes numerous adjustments to the system of post-release control administered by the APA. One of these changes allows APA to recommend reductions in the period of post-release control for any offender. Current law prohibits any such recommendation for first-degree felony offenders and felony sex offenders. The Department does not expect these changes to produce any reduction in their supervision caseloads, but it will allow for the more efficient management of resources. APA will be able to make post-release control recommendations based on the particular offender and not the felony level. This will help remove low-level, nonviolent offenders from the APA caseloads so they can concentrate resources on much more dangerous offenders.

III. Administrative duties and responsibilities

The bill contains numerous administrative and other clean-up provisions, the purpose of which is to enhance and generally improve the efficiency of state agency operations. For the purposes of this fiscal analysis, the more notable provisions are discussed in more detail below.

Legal representation

The bill provides for legal representation for a DRC employee in a criminal proceeding when the employee used deadly force in the line of duty and there is the possibility of criminal charges being filed as a result of that action. In such cases, the bill requires the Ohio Attorney General to assist DRC and the employee in finding a qualified criminal defense attorney. The Department only provides such legal assistance to the employee through the grand jury process, after which, if indicted, the employee is responsible for their own counsel at trial. The bill would also allow the Ohio Attorney General or DRC to recover these attorney costs if the employee is convicted of the offense as charged. The Department does not expect this provision to increase their operating expenditures in any significant manner, as the number of employees likely to be affected by this provision will be very small. In recent experience, DRC has had only one case in the last 15 years in which this provision would have been applicable.

Federal Equitable Sharing Fund

DRC is eligible to share in the monetary proceeds of criminal assets seized by federal law enforcement officials and subsequently forfeited, in accordance with federal law, if the Department has provided assistance or information to federal law enforcement. In order to receive these federal funds, the Department must establish an interest-bearing fund in which such forfeiture revenues would be deposited. The bill establishes, in the state treasury, the Federal Equitable Sharing Fund, and requires these federal forfeiture proceeds be used only for law enforcement purposes. The annual revenue stream that could be generated for the fund is highly uncertain. The Department would also be required to implement certain accounting and reporting procedures that would likely be absorbed into its daily cost of doing business.

Probation Services Fund

The APA currently provides probation supervision services to 50-plus Ohio counties. Any probation fee revenue collected from offenders by the APA is initially deposited into the GRF to be eventually returned to the counties from which the revenue was originally collected. The bill would allow counties to exercise more local control over the collection and use of probation fees. The bill will not generate any additional revenue, but will likely create more flexibility and administrative efficiency in the use of this revenue.

Other miscellaneous DRC provisions

The bill will permit DRC to implement certain clarifications and administrative improvements to the manner in which it provides notification of pardons, commutations, paroles, and impending inmate releases. More specifically, the bill addresses certain timing issues and allows for greater reliance on electronic methods of notification. Additionally, the bill makes other minor changes to the manner in which DRC does business, including disposal of unclaimed bodies and contracting with political subdivisions to provide sewage treatment services. The primary fiscal impact of most of these provisions involves the improvement of efficiency and some corresponding level of time and administrative savings. Individually, the fiscal impact of any of these specific provisions would likely be negligible; however, as part of the fabric of all the bill's provisions, the cumulative fiscal effect would certainly be magnified to some extent. Because these savings and efficiencies involve largely time and workload issues, the magnitude of the savings in traditional dollars is very difficult to accurately estimate.

Department of Youth Services

The bill makes a number of procedural and other administrative changes involving the Department of Youth Services (DYS). These provisions involve the conveyance of weapons, drugs, and alcohol into DYS facilities, improvements to the supervision of children released from DYS custody, adjustments to the manner in which in-service training is provided, and administrative changes to a community corrections facility governing board. These provisions, as a group, are expected to create certain operational efficiencies and possibly some minor expenditure increases. From LSC fiscal staff's perspective, the net effect of this mix of savings and costs is likely to be minimal, meaning that the total change in DYS expenditures is estimated at less than $100,000 per year.

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