

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **H.B. 191**

DATE: **May 7, 2008**

STATUS: **As Introduced**

SPONSOR: **Rep. Goodwin**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **Retention of obscene material**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.



Detailed Fiscal Analysis

Overview

For the purposes of this fiscal analysis, relative to the discovery and inspection of certain obscene material by the defendant in a criminal proceeding, the bill:

- Requires such material involving a minor as a participant or observer remain in the care, custody, and control of either the prosecuting attorney or the court.
- Requires the court to deny a request by the defendant to reproduce such material if the material is made reasonably available to the defendant for discovery and inspection.

Fiscal effects – state and its political subdivisions

LSC fiscal staff discussed the bill's potential or likely state and local government fiscal implications with staff of the Judicial Conference of Ohio and the Office of the Franklin County Prosecuting Attorney. In the course of those conversations, it was pointed out that the Supreme Court of Ohio is constitutionally required to prescribe rules governing the practice and procedure in all courts of the state, and that it has exercised this authority by promulgating rules of statewide application, including the Rules of Criminal Procedure that address the bill's regulation of discovery. Rule 16, relative to discovery and inspection by the defendant, permits the court, upon a sufficient showing, to deny, restrict, defer, or make such other order as is appropriate.

In the specific matter of the obscene material addressed by the bill, according to staff of the Office of the Franklin County Prosecuting Attorney, it is currently treated as contraband. As such, it is generally kept in the prosecutor's custody and made available to the defendant and his or her attorney at that location. Assuming local prosecutors statewide more or less handle access to this material in a similar manner, then the bill may simply be codifying current practice.

Thus, from LSC fiscal staff's perspective, given the Supreme Court of Ohio's statutory authority to prescribe rules for criminal practice and procedure, and the likely reticence of local prosecutors and courts generally in giving a defendant unfettered access to obscene material being used as evidence in a criminal proceeding, the bill will have no direct fiscal effect on the state or its political subdivisions.

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